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## THE

# Statutes at Large

OF

## PENNSYLVANIA

FROM

## 1682 to 1801

COMPILED UNDER THE
AUTHORITY OF THE ACT OF MAY 19 1887 BY

JAMES T MITCHELL AND HENRY FLANDERS

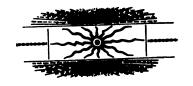
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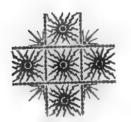
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By willing.



## PREFATORY NOTE.

The appendices herein are derived from the same sources as those in the preceding volumes, except in a few instances. The notes and index have been prepared under the supervision of the Commission by Charles R. Hildeburn, with the assistance of Ardemus Stewart, Esquire.



# THE STATUTES AT LARGE OF PENNSYLVANIA.

At a General Assembly begun and holden at Philadelphia, the fifteenth day of October, A. D. 1759, and continued by adjournments until the twenty-first day of April, 1760, the following acts were passed:

#### CHAPTER CCCCLII.

AN ACT FOR THE FURTHER CONTINUANCE OF AN ACT OF ASSEMBLY OF THIS PROVINCE, ENTITLED "AN ACT FOR THE CONTINUANCE OF AN ACT OF ASSEMBLY OF THIS PROVINCE, ENTITLED 'A SUPPLEMENTARY ACT TO THE ACT, ENTITLED "AN ACT FOR PREVENTING THE EXPORTATION OF BREAD AND FLOUR NOT MERCHANTABLE," AND FOR THE NEW APPOINTMENT OF OFFICERS TO PUT THE SAID LAW IN EXECUTION."

Whereas an act of general assembly of this province, entitled "A supplementary act to the act entitled 'An act for preventing the exportation of bread and flour not merchantable,' "1 was passed in the nineteenth year of the present reign, which being near expiring, was by one other act, entitled "An act for the continuance of an act of assembly of this province, entitled 'A supplementary act to the act, entitled "An act for preventing the exportation of bread and flour not merchantable," " &c.,² continued for the further term of seven years, which said term being nearly expired, was by one other act passed in the thirty-second

<sup>1</sup> Passed March 7, 1745, Chapter 368.

<sup>&</sup>lt;sup>2</sup> Passed August 18, 1750, Chapter 386.

year of the present reign, entitled "An act for the continuance of an act of assembly of this province, entitled "A supplementary act to the act, entitled "An act for preventing the exportation of bread and flour not merchantable and for the new appointment of officers to put the same in execution," " continued for the further term of one year from the publication thereof and from thence to the end of the next sitting of assembly and no longer, which said last-mentioned act is also now near expiring. But forasmuch as the regulating the exportation of bread and flour, which are the staple commodities of this province, will require due deliberation and more time than can well be given to the consideration thereof at this time.

[Section I.] Therefore be it enacted by the Honorable William Denny, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the act hereinbefore mentioned, passed in the thirty-second year of the present reign, entitled "An act for the continuance of an act of assembly of this province, entitled 'A supplementary act to the act, entitled "An act for preventing the exportation of bread and flour not merchantable and for the new appointment of officers to put the same in execution,"" shall be and continue in full force for the further term of seven years from the publication of this act, and from thence to the end of the next sitting of assembly and no longer; and that the officers in the said act named shall be and continue in their respective offices from the publication of this act for the space of four years and from thence until a new nomination and appointment shall be made by the assembly, anything in the aforesaid act or any other act of this province to the contrary notwithstanding.

Passed October 19, 1759. Confirmed by the King in Council, September 2, 1760. See Appendix XXIV, Section I, and the notes to the Acts of Assembly passed March 7, 1745-46, Chapter 368; and the Act of Assembly of September 27, 1758, Chapter 435.

<sup>3</sup> Passed September 27, 1758, Chapter 435.

## CHAPTER CCCCLIII.

AN ACT FOR GRANTING TO HIS MAJESTY THE SUM OF ONE HUNDRED THOUSAND POUNDS AND FOR STRIKING THE SAME IN BILLS OF CREDIT IN THE MANNER HEREINAFTER DIRECTED, AND FOR PROVIDING A FUND FOR SINKING THE SAID BILLS OF CREDIT BY A TAX ON ALL ESTATES, REAL AND PERSONAL, AND TAXABLES WITHIN THIS PROVINCE.

Whereas the large supplies heretofore granted to His Majesty's use are now expended and further aids are become absolutely necessary for the defense of this province and for assisting in the vigorous measures which are now prosecuting by our most gracious sovereign for our defense and that of his other colonies in America; and notwithstanding this young colony is now under a very heavy debt, occasioned by the large supplies already granted to the King's use, and subject to taxes which its inhabitants are scarcely able to discharge, yet as His Majesty is graciously pleased and determined to set on foot such offensive operations as shall be most efficacious towards improving the great and important advantages gained the last campaign and for the further reduction of his enemies in North America, we, the representatives of the freemen of the province of Pennsylvania, being earnestly desirous to co-operate with and second to the utmost of our abilities the large expense and extraordinary succors supplied by our mother country, have cheerfully and voluntarily given and granted and do hereby give and grant unto His Majesty the sum of one hundred thousand pounds over and above the several sums hereafter given and granted to the King's use, and do pray that it may be enacted:

[Section I.] And be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn. Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the

advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same. That the sum of one hundred thousand pounds in bills of credit, so as aforesaid to be struck by virtue of this act in the manner hereinafter mentioned, shall be given to the King's use; and to the end the said one hundred thousand pounds in bills of eredit so as aforesaid struck may be duly and fully sunk and destroyed:

Section IL Be it further enacted by the authority aforesaid, That there shall be levied on all the estates real and personal within this province of all and every person and persons (the estates of the proprietaries not excepted) the sum of eighteen pence for every pound clear yearly value of the said estates, as the said yearly value of the rents ariseth out of the premises, or otherwise to be estimated by the assessors according to their best discretion and judgment, having respect to the quantity and value of the unimproved parts of the same; as also upon all located unimproved tracts of land, to be assessed and rated in the manner hereinafter mentioned, to be paid by the owners or processors in the manner herein directed; and that every single freeman, whether residing with his parents or elsewhere, who at the time of the assessment shall be of the age of twenty-one years or hath been out of his apprenticeship or servitude for the space of six months and is not otherwise rated by virtue of this act fifteen pounds shall pay the sum of twenty shillings, except such as shall be actually engaged in His Majesty's service as soldiers during the time for which any part of the tax shall be levied.

All which said several sums so to be raised as aforesaid shall be assessed and levied from and after the tenth day of March, in the year of our Lord one thousand seven hundred and sixtyseven, and shall be collected and paid as is hereinafter directed on or before the tenth day of March, one thousand seven hundred and seventy, in the same manner as the money given and granted to the King's use in and by an act of general assembly of this province passed in the twenty-ninth year of the present reign, entitled "An act for granting the sum of sixty thousand pounds to the King's use and for striking fifty-five thousand pounds

thereof in bills of credit and to provide a fund for sinking the same," is directed, and every article, clause and thing therein contained concerning the assessing and levying the taxes therein mentioned, and the duties of the several officers and the allowances for their trouble enjoined them by the said act, and the penalties and forfeitures for refusal or neglect thereof, shall be used, exercised and put in practice for assessing and levying the tax hereby imposed and for discharging the respective duties and offices thereof, as if the same articles, clauses and things were inserted in this act, except in such cases as are herein ascertained, provided for or altered.

[Section III.] And be it further enacted by the authority aforesaid, That the freeholders and others qualified to elect members of assembly of every township and borough in each county within this province and of every ward in the city of Philadelphia, shall meet together on the twenty-seventh day of September next, and so on the same day in the same month every year during the continuance of this act, unless the same shall happen to be on Sunday, and then on the day before, and between the hours of nine in the forenoon and three in the afternoon, choose by way of ballot or by tickets in writing, one discreet and reputable freeholder who may be supposed to be best acquainted with the estates and circumstances of the inhabitants and residing within the said township, borough or ward, for an assessor, whose name shall be returned in writing under the hands of two or more of the electors to the sheriff of the respective county on or before the first day of October next following by the constable of the said township, at the same time he shall return the inspector directed to be chosen on the same day by [a] law of this province now in force; and the said sheriff shall deliver in writing within five days after the receipt of such return the names of the persons so chosen and returned for assessors to one or more of the commissioners of the said county under the penalty of twenty pounds; which said assessor so chosen as aforesaid for the respective township, borough or ward shall and is hereby enjoined and required to go to the place or places of abode of all and every person and persons residing

<sup>1</sup> Passed November 27, 1755, Chapter 406.

therein and make a faithful and diligent inquiry into, and endeavor by all lawful ways and means in his power to procure a true and exact account of the real and personal estates of every inhabitant thereof, and the real estates of non-residents therein and of the true value of such estates.

[Section IV.] And be it further enacted by the authority aforesaid, That the commissioners of the respective counties shall, within fourteen days after the first day of October next, give notice in writing to the county assessors to meet them on a certain day and place therein to be appointed, and then and there the said commissioners and assessors shall proceed to divide their respective counties into districts, allotting any number of townships, boroughs or wards, not exceeding five, lying nearest to each other, into one district, until the whole county shall be divided as aforesaid. And they shall also then and there nominate and appoint the day or days on which the assessors of each district or division so as aforesaid made shall attend in order to join with and assist the county assessors to rate and assess the district for which they shall be so respectively chosen and no other, which they, the said assessors, are hereby authorized, enjoined and required to do; of which day or days and place so appointed the commissioners are hereby commanded to give notice in the precepts hereinafter directed to be issued to the said assessors of the respective townships, boroughs or wards: But before the said assessor so chosen for each township, borough or ward in the respective counties shall enter upon the execution of the duties enjoined and required of him by this act he shall, before some magistrate of his county, take an oath or affirmation that he will well and faithfully, to the best of his skill, judgment and abilities, discharge and perform all and every the acts and duties hereby enjoined and required of him.

[Section V.] And be it further enacted by the authority aforesaid, That the commissioners of the respective counties or any two of them, shall, within ten days after the county is divided into districts, under the penalty of fifty pounds, issue forth their precepts, directed to the assessor of every township within their county, requiring him to bring to the county assessors within

four weeks next after the date of such precepts fair and true certificates in writing of the names and surnames of all and every the persons dwelling or residing within the limits of that township, ward, borough or place with which he shall be charged and the names of all freemen, inmates, hired servants and all other persons residing or sojourning in the same township, ward, borough or place, together with an account of what tracts and parcels of land and tenements they respectively hold, as also how many and what part of those tracts are settled, improved or cultivated and how much of the said land is sowed with corn; how many bound servants and negroes, with their ages, and what stock of cattle, horses, mares and sheep they possess, and what quit-rents they respectively are liable to pay to the proprietaries yearly within this province; also all gristmills, saw-mills and all other mills, forges, furnaces, mines, house-rents, ground-rents, trades or occupations, and all offices and posts of profit, bodies politic and corporate having estate or income (hospitals and charity schools only excepted), together with what other property they respectively hold; and also an account of all such located lands as belong to the Honorable the Proprietaries of this province or either of them; and such other land as by the hereinbefore mentioned act for granting sixty thousand pounds to the King's use and by this act is particularly set forth and directed to be assessed, without concealment, fear, malice, favor or affection.

[Section VI.] And be it further enacted by the authority aforesaid, That the assessors of the respective counties shall meet at the day and place to be appointed as aforesaid by the commissioners' precepts, and then and there receive the returns of the assessors so chosen by the freeholders and inhabitants of the respective townships, boroughs and wards, and thereupon proceed, in conjunction with the assessors of each respective district, who shall have the same powers with the county assessors, to rate and assess the same townships, boroughs and wards within the same district. And the said rates and assessments of one district being finished, they, the said county assessors, together with the assessors elected by the townships, boroughs or wards respectively, shall proceed to rate and assess another

district in the same manner, until they shall have rated and assessed the whole county according to justice and good conscience. And the assessors of each district shall and they are hereby enjoined and required to attend on the day of appeal, which shall be appointed by the commissioners for their respective districts, in the same manner and for the same purposes as the county assessors are directed and required by the act for raising county rates and levies.

[Section VII.] And be it further enacted by the authority aforesaid. That if any of the townships or boroughs within this province or any of the wards of the city of Philadelphia shall neglect or refuse to choose an assessor as is hereinbefore directed, the constable of every township, borough or ward so neglecting shall forthwith, under the penalty of ten pounds, give notice thereof to the commissioners of the respective county, who shall and they are hereby authorized and enjoined, as soon as may be, to make choice of one assessor residing in every township, borough or ward, so as aforesaid neglecting; of which choice the said commissioners shall forthwith give notice to the constable, and the said assessor or assessors so as aforesaid appointed by the said commissioners shall be under like qualifications and have the same powers and authorities and shall perform all the duties of assessors, under the same pains, penalties and forfeitures as if the said assessor or assessors had been chosen by the major vote of the freeholders and inhabitants of the respective townships or boroughs within this province or of the wards of the city of Philadelphia as is hereinbefore directed.

[Section VIII.] And be it further enacted by the authority aforesaid, That the commissioners and assessors of every county within this province, together with the assessors so chosen by the freeholders and inhabitants of each township, borough or ward, shall proceed to assess, rate and levy the taxes and sums of money which are by several former laws directed to be assessed, raised and levied for sinking the bills of credit that have been heretofore struck and granted to His Majesty's use, upon the same returns of property and in the same manner as the sum of one hundred thousand pounds hereby granted to the

King's use is enjoined and directed to be assessed, raised and levied, and in no other manner whatsoever.

[Section IX.] And be it further enacted by the authority aforesaid. That the assessors of the several counties within this province shall and they are hereby enjoined and required, under the penalty of fifty pounds each, after the assessment of every township in each respective county is made and finished, to deliver to the respective commissioners true transcripts of their said assessments, certified under their hands, together with the quantity of all and every tract of land and how much they are rated at per hundred acres; and also the quantity of the personal estate of all and every person and taxable in each and every township within their counties respectively and in what manner the same was rated and assessed, and an account of all single men rated per head: All which said transcripts or duplicates thereof, shall be by the commissioners laid before the assembly for the time being at their next meeting after the said assessments are regulated and adjusted by the commissioners, under the penalty of fifty pounds each, in order that the representatives of this province may inspect and consider the equality of the said assessments in respect to the proportions which the several counties may bear one to the other, and conduct themselves accordingly.

And whereas many valuable lots of ground within the city of Philadelphia and the several boroughs and towns within this province remain unimproved.

[Section X.] Be it further enacted by the authority aforesaid, That all such unimproved lots of ground within the city and boroughs aforesaid shall be rated and assessed according to their situation and value, for and towards raising the money hereby granted, anything in this act or any other act of this province relating to the taxing of unimproved located lands contained to the contrary notwithstanding.

[Section XI.] And be it further enacted by the authority aforesaid, That in case of the death of any of the commissioners or assessors, or their neglect or refusal to act in discharge of the duties required of them by this act, then and in every such case the remaining commissioners and assessors of the respective

county for the time being, or the major part of them, shall appoint others to supply the place or places of such as shall so die, neglect or refuse to act from time to time, as occasion may require, which commissioner and assessor or assessors so chosen shall take the oaths or affirmations in the manner prescribed to be taken by the laws of this province, and shall thereupon have all the powers and authorities and shall perform all the duties as commissioners and assessors chosen by the direction of the laws of this province in the respective counties to all intents and purposes whatsoever: And the commissioners who shall put this act in execution, instead of the oath or affirmations prescribed to be taken by former acts by the commissioners and assessors, shall take an oath or affirmation to the following effect, viz.:

"You shall well and truly cause the rates and sums of money by virtue of this act imposed to be duly and equally assessed and laid, according to the best of your skill and knowledge, so far as relates to the duty and office of a commissioner, and herein you shall spare no person for favor or affection or grieve any for hatred or ill-will."

Which qualification shall be administered as in and by an act for raising county rates is enjoined and required.

[Section XII.] And be it further enacted by the authority aforesaid, That the commissioners and assessors of the respective counties for the time being, or the major part of them, and no other, are hereby empowered and required, as often as there may be occasion during the continuance of this act, to choose a treasurer for each county, who shall have all the powers and shall be subjected to all the duties, penalties and forfeitures as by the acts now in force they are or ought to be invested with or subjected to.

[Section XIII.] And be it further enacted by the authority aforesaid, That the provincial treasurer for the time being shall, out of the moneys paid into his hands by virtue of this act, yearly and every year for the space of three years next ensuing the first day of October, one thousand seven hundred and sixty-seven, pay into the hands of the committees of assembly yearly appointed to settle the public accounts, the sum of thirty-three thousand three hundred and thirty-three pounds, six shillings

and eight pence in bills of credit of this province, which the said committees are hereby enjoined and required [yearly] during the said term of three years, to burn, sink and destroy.

And the provincial treasurer shall have and receive for his care and trouble the sum of five shillings for every hundred pounds he shall so receive [and pay] and no more.

And the trustees of the general loan-office shall have and receive for their trouble in receiving and paying the moneys and performing the duties by this act required the sum of three shillings for every hundred pounds and no more.

And the assessors chosen as aforesaid for their care and trouble in making the returns and attending the assessors of the county and other the duties enjoined them by this act shall have and receive five shillings per diem and no more.

And the county assessors, for their time and labor in their assessments, shall be allowed five shillings per diem and no more.

[Section XIV.] And be it further enacted by the authority aforesaid. That if any of the commissioners or county assessors or the assessors of the several townships, boroughs or wards shall refuse or neglect to perform and discharge the duties required of them by this act, each and every of the said commissioners or assessors so refusing or neglecting shall forfeit the sum of fifty pounds. And the commissioner or commissioners and county assessors who shall act, or a majority of them, shall appoint some other fit person or persons in the place or stead of such as shall refuse or neglect to act as aforesaid, or of such as shall be rendered incapable by sickness or other unavoidable accident. And every collector or collectors who shall neglect or refuse to take upon him or themselves the trust and duty required of him [or them] by this act, he or they so refusing or neglecting shall forfeit and pay to the county treasurer the sum of ten pounds each, and the commissioners shall appoint some other fit person or persons in the place or stead of the collector or collectors so refusing or neglecting as aforesaid. said fines and forfeitures shall be levied in the same manner that the fines and forfeitures imposed and inflicted by the act for raising county rates and levies are directed and when recovered shall be added to the provincial stock.

[Section XV.] And be it further enacted by the authority

aforesaid, That a proportionable part of the several sums of money granted to His Majesty's use shall be rated, assessed and levied upon all and every the real and personal estates of the Honorable Thomas Penn and Richard Penn, Esquires, proprietaries of this province, and shall be paid on the same terms, limitations and conditions and at the same times as in and by an act of General Assembly of this province passed in the thirty-second year of His present Majest's reign, entitled "An act for granting to His Majesty the sum of one hundred thousand pounds and for striking the same in bills of credit in the manner hereinafter directed, and for providing a fund for sinking the said bills of credit by a tax on all estates, real and personal, and taxables within this province," and by this act are particularly set forth, directed, limited and appointed, anything in this act or any other act of this province to the contrary notwithstanding.

[Section XVI.] And be it further enacted by the authority aforesaid, That bills of credit to the value of one hundred thousand pounds, current money of America, according to an act of Parliament made in the sixth year of the reign of Queen Anne for ascertaining the rates of foreign coins in the plantations of America, shall within one month next after passing this act be prepared and printed on good, strong paper, under the care and direction of the trustees of the general loan office aforesaid, the charge whereof shall be paid by the provincial treasurer out of the moneys arising from the next tax raised and paid into his hands after the publication of this act, which bills shall be made and prepared in manner and form following [and no other] viz.:

"This bill shall pass current for — within the province of Pennsylvania according to an act of assembly made in the thirty-third year of the reign of King George the Second. Dated the first day of May, one thousand seven hundred and sixty."

And the said bills shall have such like escutcheons as in the margin hereof, with such other devices on the said bills as the said trustees shall think fit, as well as to prevent counterfeits as to distinguish their several denominations, each of which bills shall be of the several and respective denominations following and no other, viz.:



<sup>1</sup> Passed April 17, 1759, Chapter 437.

Nine thousand nine hundred of the same bills, of the sum of five pounds.

Nine thousand nine hundred of the same bills, of the sum of two pounds ten shillings.

Nine thousand nine hundred of the same bills, of the sum of twenty shillings.

Nine thousand nine hundred of the same bills, of the sum of fifteen shillings.

Nine thousand nine hundred of the same bills, of the sum of ten shillings.

Nine thousand nine hundred of the same bills, of the sum of five shillings.

Ten thousand nine hundred and nine of the same bills, of the sum of nine pence.

Ten thousand nine hundred and nine of the same bills, of the sum of six pence.

Ten thousand nine hundred and nine of the same bills, of the sum of four pence.

Ten thousand nine hundred and nine of the same bills, of the sum of three pence.

And the trustees shall use the best of their care, attention and diligence during the printing of the said bills that the number and amount thereof, according to their respective denominations aforesaid, be not exceeded nor any clandestine or fraudulent practice be used by the printer, his servants or others concerned therein.

And for perfecting the said bills to make them current within this province according to the true intent and meaning of this act:

[Section XVII.] Be it further enacted by the authority aforesaid, That all and every of the said bills of the sum of five shillings and upwards shall be signed by the following persons, or any three of them, and all the tickets by any one of them and no more: That is to say, Charles Jones, Richard Pearne, Joseph Stretch, John Jervis, Joseph Norris, Henry Harrison, Charles Thomson, Luke Morris, Evan Morgan, Thomas Tilbury, John Ord, Thomas Gordon, Joseph Marriot, Thomas Say, Joseph Saunders, Joseph Redman, Isaac Greenleafe, William Morris,

Jonathan Evans, Matthew Drason, Joseph King, Joseph Parker, George Morri[son] and James Eddy; who are hereby nominated and appointed to be signers of all the bills of credit to be emitted by virtue of this act in the manner hereinbefore directed. And the several signers shall, before they receive or sign any of the said bills of credit, take an oath or affirmation to the following effect, viz.:

"They shall well and truly sign and number all the bills of credit that shall come to their hands for that purpose by the direction of this act; and the same so signed and numbered will deliver or cause to be delivered unto the trustees of the general loan office of the province of Pennsylvania pursuant to the direction of this act."

[Section XVIII.] And be it further enacted by the authority aforesaid, That the said trustees, after the said bills are printed, shall deliver them to the said signers to be signed and numbered by parcels, for which the said signers or some of them shall give their receipt; of all which bills of credit so delivered by the trustees to be signed true account shall be kept by the signers, who, upon the re-delivery of each or any parcel of the said bills of credit by them signed and numbered to the trustees of the general loan office shall take the receipt of the said trustees, to charge them before any committee of assembly to be appointed for that purpose. And the said signers shall have fifteen shillings apiece for every thousand of the aforesaid bills by them respectively signed and numbered, to be paid by the provincial treasurer out of the moneys arising from the next tax raised and paid into his hands after the publication of this act.

[Section XIX.] And be it further enacted by the authority aforesaid, That all the aforesaid bills of credit to be made as this act directs shall be current bills of this province until the tenth day of March in the year one thousand seven hundred and seventy and no longer, and as such shall during the said term be received in payment for the discharge of all manner of debts, rents, sum and sums of money whatsoever, due, payable or accruing upon any or by reason of any mortgage, bill, bond, specialty, note, book account, promise or other contract or cause whatsoever, as if the same were tendered or paid in the coins mentioned in such bond or other writing, book account, promise,

assumption or any other contract or cause whatsoever, and at the rates ascertained in the said act of Parliament, and shall be so received in all payments by all persons whatsoever.

[Section XX.] And be it further enacted by the authority aforesaid. That if any person or persons shall presume to counterfeit any of the said bills of credit made current by this act, or shall be aiding and assisting therein, or shall enlarge the sum expressed in any of the said bills, or shall utter or cause to be uttered or offered in payment any such bill or bills knowing the same to be forged or counterfeited or the sum or value therein altered, with an intent to defraud any other person, he, she or they so offending and being thereof legally convicted shall for every such offense incur and suffer the same pains and penalties respectively as forgers, counterfeiters or alterers of bills by former acts of assembly now in force or any of them are directed to incur and suffer; and the discoverer or prosecutor by virtue of this present act shall be entitled to like rewards as by the said former acts or any of them are directed in respect to the bills thereby made current.

[Section XXI.] And be it further enacted by the authority aforesaid, That Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, William Masters, Joseph Galloway and John Baynton, Esquire, or the major part of them or of the survivors of them, with the consent and approbation of the governor or commander in chief of this province for the time being, shall order and appoint the disposition of the moneys arising by virtue of this act, for and towards raising, paying and clothing two thousand, seven hundred effective men (officers included) to act in conjunction with a body of His Majesty's British forces until the twenty-fifth day of November next ensuing, in such offensive operations as shall be carried on and prosecuted by His Majesty's commander in chief.

And that the said Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, William Masters, Joseph Galloway and John Baynton, Esquires, or a majority of them shall and they are hereby required as often as there shall be occasion for money for the purposes aforesaid, to draw orders upon the trustees of the general loan office, which orders so drawn and paid shall be

produced to the committee of assembly for the time being and by them allowed in discharge of so much of the money granted to the King's use by virtue of this act. And the said commissioners, for their trouble in discharging the duties of commissioners hereby required, shall have and receive the sum of one hundred pounds each and no more, to be paid in the manner hereinbefore directed for defraying the charges arising upon printing and signing the bills of credit made current by virtue of this act.

And whereas the commissioners nominated and appointed by an act of general assembly of this province, entitled "An act for granting to His Majesty the sum of one hundred thousand pounds and for striking the same in bills of credit in the manner hereinafter directed, and for providing a fund for sinking the said bills of credit by a tax on all estates, real and personal, and taxables within this province," have, with the consent of the governor, already expended the said sum of one hundred thousand pounds and have entered into contracts for the King's service in the defense of this province, for the defraying whereof there are at present no subsisting funds, and whereas sundry certificates and drafts on the provincial treasurer by order of assembly for salaries of officers and services done the public remain yet unpaid through a deficiency of money in his hands to such purposes appointed:

[Section XXII.] Therefore be it enacted by the authority aforesaid, That the trustees of the general loan office shall and they are hereby authorized and empowered, out of the moneys arising by virtue of this act to pay and discharge all such debts and contracts as the commissioners appointed by the act hereinbefore mentioned for granting one hundred thousand pounds to the King's use shall certify under their hands or the hands of the major part of them, to be debts justly due and contracts entered into for the King's service and properly chargeable to this province; and also for defraying the expense that hath or shall accrue for or by reason of the maintaining and supporting the poor persons, late inhabitants of Nova Scotia; and also such certificates and drafts as have been heretofore made

by order of assembly on the said provincial treasurer for services done the public which yet remain unpaid through a deficiency of money in the provincial treasurer's hands as aforesaid.

And in order to prevent impositions on the soldiery in the purchasing of their military habits and clothing:

[Section XXIII.] Be it enacted by the authority aforesaid, That it shall and may be lawful to and for the commissioners appointed by this act and they are hereby enjoined and required to agree with some person or persons to procure and purchase the necessary clothing for such of the men already raised or directed to be raised by this act for the ensuing campaign, as shall stand in need thereof and apply for the same and to allow [him or] them a reasonable commission for his or their trouble and service in purchasing the same and superintending the making and preparing them fit for use, not exceeding two and an half per centum; which person or persons shall settle his or their accounts with the said commissioners, and the expense of the said clothing shall be deducted out of the pay due to each respective soldier who shall be clothed in manner aforesaid; and the commissions arising thereon shall be paid and discharged out of the sum hereby granted to His Majesty's use.

[Section XXIV.] And be it further enacted by the authority aforesaid, That all the fines and forfeitures imposed and arising by virtue of this act shall be levied and recovered in the same manner as the fines and forfeitures inflicted by the hereinbefore mentioned act for raising county rates and levies are directed to be recovered and shall be paid and added to the sum to be raised, levied, assessed and collected by virtue of this act for the purposes hereinbefore mentioned.

[Section XXV.] And be it further enacted by the authority aforesaid, That if the yearly taxes to be levied by virtue of this act shall not be sufficient to raise the full sum of one hundred thousand pounds hereby granted to His Majesty and defray all incident charges, in such case a further tax shall be laid and levied in the succeeding year or years in the same manner as the said three yearly taxes are directed to be laid and levied until the said one hundred thousand pounds be fully completed; and if the said three yearly taxes shall produce more than the said

one hundred thousand pounds, the incident charges as aforesaid being defrayed, the overplus shall be disposed of and appropriated towards making good and discharging any deficiency or deficiencies which have already accrued or may hereafter accrue upon any or either of the acts of assembly of this province heretofore enacted for granting money to the King's use.

Passed April 12, 1760. See the notes to the Acts of Assembly passed March 5, 1725-26, Chapter 289; and November 27, 1755, Chapter 406; and the Act of Assembly passed May 30, 1764, Chapter 513.

## CHAPTER CCCCLIV.

AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF THE MEADOW AT POINT NO POINT, IN THE PRECINCT OF RICHMOND, IN THE COUNTY OF PHILADELPHIA, TO KEEP THE BANKS, DAMS, SLUICES AND FLOOD-GATES IN REPAIR AND TO RAISE A FUND TO DEFRAY THE EXPENSE THEREOF.

Whereas great controversies frequently arise between the owners of meadows near the city of Philadelphia, occasioned by their or some of their neglect to keep their respective banks, dams, sluices, flood-gates and drains in repair, whereby great damages have happened and the labor and expense of a whole neighborhood may be rendered ineffectual by the default of a part.

And whereas all the owners of the said meadows cannot, in many cases, be induced speedily to repair the breaches that may be made from time to time in the banks, dams, sluices and other necessary means practicable for sustaining the whole or any part of the said meadows nor can they be compelled to contribute a proportionable part of the charge which may be incurred by such repairs without the aid of the legislature. And forasmuch as the good maintenance of meadows conduces to public utility as well as private property and in a great measure to prevent sickness that may be occasioned by the said meadows lying under stagnated water:

[Section I.] Therefore be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That a certain tract of banked and improved meadow, commonly called Point No Point Meadows, fronting the river Delawere in the precinct of Richmond, in the township of the Northern Liberties, in the county of Philadelphia, lying between the mouth of Gunner's Creek and the mouth of Frankford Creek, bounded on the southeast by the said river and on the other parts by upland belonging to several owners of the said meadows; which said tract of banked and improved meadow shall be and hereby [is] divided into several allotments by lines which extend from the upland to the said river in manner following, to wit: the lower and southwest end of the said tract claimed by the heirs of William Ball, deceased, bounded on the southwest by upland of the said heirs and extending up to a creek dividing the said Ball's meadow from the meadows of the heirs of Edward Warner, deceased, shall be one allotment.

And from the last-mentioned division creek extending cross the meadows of the heirs of the said Edward Warner and of Joseph Fox and others to the line dividing them from the meadow of William Callender shall be one other allotment.

Thence extending cross the meadow of the said William Callender to the line dividing it from Parrock's meadow shall be one other allotment.

Thence cross the said Parrock's meadow to the line dividing this from the meadow of Michael Hillegas shall be another allotment.

Thence cross the said Hillegas' meadow to the line dividing it from the meadow late of Joseph Lynn, deceased, shall be one other allotment.

Thence cross the meadow late of the said Joseph Lynn to the line dividing the same from the meadow of Jeremiah Elfreth and company shall be another allotment.

Thence cross the meadow of the said Elfreth and company to

the line dividing the same from Samuel Oldman's meadow shall be another allotment.

Thence cross the meadow of Samuel Oldman to the line dividing it from Robert Hopkins' meadow shall be another allotment.

Thence cross the meadows of the said Hopkins and Hugh Roberts to the line of William Moore's meadow shall be another allotment.

Thence extending cross the said meadow of William Moore to the bank where it joins his upland shall be one other allotment and the upper end of the said meadow tract.

[Section II.] And be it further enacted by the authority aforesaid, That the owners of the said tract of [meadow] shall be henceforth named Richmond Company, and that they or as many of them as shall think fit shall and may meet on the second Monday in June next at the court-house in Philadelphia, who shall and may give notice by advertisement in the Pennsylvania or some other public English Gazette or Journal of the time and place of such meeting ten days before such time, and from and after the second Monday of June next such meeting to be on every first Monday in the months of September, December, March and June yearly, due notice being given by the managers to be chosen as hereinafter directed of the time and place of meeting ten days before such time [and] at every such meeting in the month of June aforesaid the said owners or as many of them as shall meet shall, by a majority, choose by ballot four fit persons or possessors of the said meadows at Point No Point to be managers and one fit person to be treasurer for the whole company aforesaid during the year then next ensuing.

[Section III.] And be it enacted by the authority aforesaid, That if any of the said owners or possessors elected or to be elected managers as aforesaid on due notice given and to be given to him or them of his or their election shall refuse or afterwards neglect to do the duty required of him or them by this act, he or they [so] refusing or neglecting his duty as a manager shall ferfeit and pay to the treasurer for the time being, to be appointed as hereinafter mentioned, the sum of forty shillings, to be added to the common stock of the said Richmond Company, unless he shall have served three years successively in the said office, which fine shall be recovered in manner hereinafter mentioned for the recovery of all other money payable to the treasurer of the said company, and the other managers shall proceed in their duty, or if they think fit may choose other of the said owners or possessors as manager or managers in the place of him or them refusing or neglecting as aforesaid.

[Section IV.] And be it [further] enacted by the authority aforesaid, That every treasurer hereafter to be chosen for the said Richmond Company shall, before he take upon him the execution of his office, enter into an obligation with one sufficient surety in a penal sum double the value of the money that doth or may probably come into his hands during the continuance of this act, as near as can be estimated by the managers, conditioned that he will once in every three months, or oftener if required, render his accounts to the said managers, and well and truly account, adjust and settle with them when required for and concerning all moneys that are or shall come to his hands by virtue of this act or belonging to the said Richmond Company, and shall and will well and truly pay the balance that shall appear on such settlement to be in his hands or any part or parts thereof unto such person or persons from time to time and for such services as any three of the managers for the time being shall order and appoint and not otherwise; and that he will, at the expiration of his office, well and truly deliver up and pay the balance of the money then remaining in his hands, together . with the books of accounts concerning the same and all other papers and writings in his keeping belonging to the said Richmond Company, unto his successor in the said office and that he will do and execute all other things as treasurer to the said company according to the true intent and meaning of this act.

[Section V.] And be it enacted by the authority aforesaid, That the owners, occupiers or possessors of the aforesaid allotments whose banks, dams, sluices or flood-gates are in anyways defective shall, within three months from the publication hereof, cause them to be put in good and substantial repair, and make up or cause their respective parts of the banks cross their whole front next Delaware to be made up level on the top and sufficiently strong and secure to defend their respective meadows

from all inundations, for which end the said banks shall be always kept at least six inches above all tides; and when each and every of the owner and owners within his or their respective allotments shall have made up and defended his or their banks or those which have been deemed so, in as secure and durable a manner as any of the other owners in the same allotment have done, all future charges shall be equally borne and paid by the present and future owners, occupiers or possessors of the said meadows in proportion to the number of acres he, she or they do or may hold or own within the banks of their respective allotments; and the said owners or occupiers shall cause the said banks, dams, flood-gates and sluices to be constantly kept in the like good order and also any sluice or other security that may be directed by the said managers.

And the said managers for the time being in every year are hereby empowered, authorized and required to inspect at least four times in each year the condition of every of the said banks, [dams]. sluices, flood-gates and other conveniences necessary for stopping out the tides or draining the waters from the said meadows, and if any shall appear unfinished, damaged, decayed or destroyed or shall be any other wise insufficient for the purposes aforesaid, they, the said managers, shall consider and determine by what methods such part or parts may be made good and secure and the said managers shall give notice to one or more of the owners or possessors of the allotment in which such defect shall happen to be, or to the guardians (if minors), and to be found in the county of Philadelphia, whose duty it shall appear to the said managers to be and require him or them forthwith to make or mend the banks, dams, sluices, flood-gates or other conveniences within their respective allotments in such manner as they, the said managers, shall think fit and necessary for the security aforesaid.

[Section VI.] And be it enacted by the authority aforesaid, That if at any time hereafter any of the said owners or occupiers of any of the allotments aforesaid or any guardian of a minor owner thereof so warned by the said managers for the time being, shall refuse or neglect after such warning to make amend or repair their or any of their respective parts agreeable to the

directions of the said managers, or if any of the said owners or guardians are not to be readily found within the said county at the time aforesaid, that then and thereafter, as often as it shall so happen, it shall and may be lawful to and for the said managers or any of them, together with such workmen, horses, carts, barrows and tools as they shall think fit to enter into and upon the said land of him, her, them or any of them so neglecting or refusing or not to be found in the said county, and then and there to dig and carry earth or purchase suitable materials to make, amend and repair the said banks, dams, sluices, flood-gates and all other conveniences necessary for stopping out all tides or for draining the waters off the meadow in such manner and by such ways and means as they shall think fit and reasonable, any law of this province, usage or custom to the contrary in any wise notwithstanding. And they, the said managers, or any three of them, shall adjust and settle the expense thereof among the owners of the respective allotments as they shall think just and reasonable, having regard to the number of acres each owner shall have within the said allotment, and shall also deliver to the said owners, guardians or possessors of the allotment on which the repairs shall be made or to as many of them as are to be found as aforesaid their respective bills of the charge or proportion of the charge of the said banks, dams, sluices, flood-gates and conveniences as aforesaid and shall order payment accordingly, and in case of their or any of their refusal or delay of payment, they shall order the treasurer for the time being to advance and pay so much of the company's money as shall be sufficient to satisfy the said charge until it can be obtained from those who ought to pay the same.

Provided always, That nothing herein contained shall be deemed or construed to dissolve any contract made or to be made between any of the said owners or possessors relating to the premises or any part thereof so that such contracts shall not [retard or] interfere with the general improvement or security hereby intended:

And provided, That if any owner, occupier or possessor of meadow in the aforesaid tract shall make any necessary repair of the bank, dam, sluice, trunk or other convenience within his respective allotment such part of the said expense as shall be certified under the hands of the managers to be just and reasonable for the other owners, occupiers or possessors therein to pay, shall, on their refusal or neglect of payment, be recovered by the treasurer in manner hereinafter directed for recovery of any repairs made by the managers and shall be repaid to the person or persons who shall make the said necessary repairs.

And in order to establish a fund to defray sundry contingent yearly expenses and to prevent any delay hereafter for want of money in case of inundations or extraordinary accidents:

[Section VII.] Be it enacted by the authority aforesaid, That every owner or possessor of land in the aforesaid meadow tract shall, on or before the second Monday in July next after the publication hereof, pay or deposit, or cause to be paid or deposited, in the hands of the treasurer aforesaid, the sum of one shilling current money of Pennsylvania for each and every acre they respectively have, hold, occupy or possess within the banks in the aforesaid tract, and all and every person who shall on the second Monday in July in every year hereafter be owner, occupier or possessor of meadow land in the said tract shall, in like manner, pay or deposit or cause to be paid or deposited on the second Monday in July in every year in the hands of the treasurer for the time being the sum of one shilling for each and every acre of meadow which they respectively shall so have, hold, occupy or possess in each and every year, until the sum of one hundred pounds or value [thereof] in good securities shall be and remain in the hands of the treasurer, after payment of all charges then accrued and no longer; and that afterwards they and such as shall hereafter be owners or possessors shall pay and deposit such sum or sums on the second Monday in July in every year as the managers for the time being shall find necessary to assess and order.

So always and provided, That the sum of one hundred pounds shall, in the beginning of every year, be in the treasurer's hands, ready to be applied in the premises as occasion may require; of all which sums of money and of all other money coming to his hands by virtue of this act and of all disbursements and payments

thereof from time to time made, the said treasurer shall, in books to be provided for that purpose, keep a just and true account and shall pay and deliver the same according to the directions and orders of the managers for the time being, or some three of them; and if any person hereafter to be elected treasurer shall refuse or neglect to take upon him the duties of his office or to give the security hereby required or shall afterwards misbehave himself or be rendered incapable of the duties of the said office, in any or either of the said cases the managers for the time being, or any three of them, shall choose another fit person not a manager to be the treasurer till the next ensuing election.

[Section VIII.] And be it enacted by the authority aforesaid, That the orders of any three of the managers on the treasurer for the time being shall be complied with by the said treasurer and shall be good vouchers to indemnify him for the payment and delivery of the money and effects committed to his care by virtue of this act, and that all bonds, mortgages, deeds and conveyances in trust for the use of the said owners shall be taken in the name of the treasurer of Richmond Company and payable to him and his successor, and shall be mentioned to be for the use of the owners thereof, and with or without assignment shall be good and available in law to his successor and successors in the said trust for the use of the owners as aforesaid, and shall be recoverable in any court of record in this province where the same may be cognizable as fully and effectually to all intents and purposes as if the same were private property and duly assigned in all the forms of law; and the receipts and discharges of such succeeding treasurer or treasurers for any such sum or sums of money paid to him or them shall be effectual.

[Section IX.] And be it enacted by the authority aforesaid, That no process, suits or proceedings whatsoever which at any time hereafter shall be commenced, sued or brought before any of the justices of the peace, or judges of the common pleas or supreme court, or before any magistrates of this province in the name of any treasurer of the said Richmond Company shall be discontinued or put without a day by reason of the death, disability or removal of such treasurer, but shall stand good and

effectual in law to all intents and purposes notwithstanding such death, disability or removal.

[Section X.] And it is hereby further enacted by the authority aforesaid, That the managers for the time being shall before the day hereinbefore appointed for payment of the yearly quotas, deposit money or assessment cause a true list of the names of all and every of the said owners or possessors with a true account of all and every acre of meadow in the aforesaid tract which they respectively [have] hold, occupy or possess exclusive of banks and flats, according to the best information they can obtain, noting from time to time the several changes, alterations, transfers and alienations of right in the several parts and parcels thereof as they shall come to their knowledge, and shall furnish the treasurer with a true copy thereof together with the sum per acre of the general assessment for the current year, when any alteration shall be in the aforesaid deposit of one shilling; according to which list or account the treasurer for the time being shall receive and take the several sums of their and each of their deposit money respectively in every year raised or assessed by this act, and shall cause public notice of the said rate or assessment per acre to be given at least ten days before the day of payment in every year hereafter; and in case any of the said owners, occupiers or possessors aforesaid shall refuse or neglect to pay or cause to be paid to the treasurer aforesaid on the days and times aforesaid the several sums of money, or any part thereof which they respectively ought to pay or deposit according to the [true] intent and meaning of this act, they and each of them so neglecting or refusing shall forfeit and pay to the said treasurer the additional sum of two pence for every shilling unpaid which they respectively ought to have paid by direction of this act; and afterwards shall for every three months neglect or refusal in like manner forfeit and pay to the treasurer for the time being the like sum of two pence for every shilling which he, she or they failed of paying on the day or time appointed when they respectively ought to pay by the direction of this act.

[Section XI.] And be it further enacted by the authority aforesaid, That if any of the said owners, occupiers or possessors

shall neglect or refuse as aforesaid to pay the several sums of money, together with the forfeitures arising thereon which they respectively ought to pay at any time or times hereafter for the space of twelve months after any of the days or times in which it ought to be paid, or shall have neglected or refused to make, amend or repair his, her or their bank, dam, sluice, flood-gate or other conveniences or any of them, or any part which they the said owners, occupiers or possessors ought to have done, or shall have refused or neglected to reimburse the treasurer for the time being the necessary expense thereof agreeable to the direction of this act, that then and so often it shall and may be lawful to and for the said treasurer by direction of the said managers or any three of them in his own name to sue all and every such person or persons so refusing or neglecting for the respective sum or sums of money which he, she or they ought to have paid by virtue hereof by action of debt, if five pounds or under, before any justice of the peace or in any court of record where the same may be cognizable, and give this act and the said assessment or the said account as the case may require in evidence; and the said justice of the peace and the said court are hereby empowered and directed to give judgment and grant execution for the same, with costs of suit accordingly; or the said managers, or any three of them, shall, if they think fit and they are hereby empowered and authorized to let out on rent any part of the said meadow belonging to any of the said owners who shall neglect or refuse as aforesaid, or who shall not be found in the county as aforesaid, from year to year or for so long a time as until the rent or rents arising therefrom shall as nearly as may be computed, pay all such sum or sums of money so assessed or so charged, together with all the forfeitures arising thereon for neglect or refusal to pay the same as aforesaid, and no longer.

Provided always, That in letting out of the said meadow the said managers do publicly notify the leasing thereof and let the same to the highest bidder at private sale.

[Section XII.] And it is hereby enacted by the authority aforesaid, That the managers for the time being or any three of them, shall have the power of disposing of all moneys paid to the

treasurer by virtue of this act, and of hiring and appointing at the expense of the said company any person or persons from time to time to inspect the condition of all banks, dams, sluices and flood-gates near the river Delaware and within the said tract of meadow land, and to inform their respective owners or the said managers when any repairs are wanting and may displace such person or persons and appoint others as often as they shall think fit; and the said managers shall have power to dispose of the money in the treasurer's hands as aforesaid for the destruction of such vermin as usually damage the said banks and dams or for any other general service of the said Richmond Company, and may advance of the said moneys any sum or sums that may be necessary for making, amending or repairing any of the said banks, dams, sluices or flood-gates till the same can be recovered of the respective owners as aforesaid.

[Section XIII.] And be it further enacted by the authority aforesaid, That the said managers are hereby authorized and empowered in behalf of the said company, and they shall settle accounts with the treasurer from time to time and shall do and execute all other matters and things pertaining to the general good and benefit of the said owners.

Provided nevertheless, That if any owner or owners shall think him, her or themselves aggrieved by any order, proceeding or account of the said managers, such owner or owners shall choose two fit and disinterested persons, and the said managers, or some three of them, shall choose two other fit and disinterested persons, who (or any three of them so chosen as aforesaid) shall finally settle the same and all other matters and things in dispute.

And whereas the well draining, preserving and keeping open the drains of the respective allotments is of great service and importance:

[Section XIV.] Be it enacted by the authority aforesaid, That all and every of the said owners shall be permitted, allowed and suffered to discharge all or any of their waters through their natural or artificial channel that may be within their allotment, or by a direct course over and across the land of any other of the owners within their allotment, as shall by the managers for the time being, or the major part of them be judged convenient, into

the main channel, creek or sluice best suiting to discharge the same into the river Delaware, and shall be admitted and suffered to open, scour and cleanse the same when and as often as they and the managers shall think necessary and convenient, any law, custom or usage to the contrary notwithstanding.

Provided always, That such owner or owners requiring a passage for his, her or their water shall first pay all damages sustained or to be sustained by such neighbor through whose land the water is to be discharged and also such proportional parts of the charge of banks, dams, sluices, flood-gates or other conveniencies as have been settled by the managers to be his or their part within any allotment. And for the more orderly execution of their duty and trust the said managers are hereby required to meet at least once in three months at some convenient place to confer and conclude concerning the matters hereby committed to them, and shall cause fair minutes of their proceedings to be kept in a book provided for that purpose; in every of which meetings the resolution of any three of them shall be entered on their minutes and deemed and taken as the resolution of the whole, to which minutes and also the treasurer's accounts all persons concerned shall have free recourse at all seasonable times.

Passed April 12, 1760. Referred for consideration by the King in Council, January 20, 1761, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXII, Sections I, III and VII, and the Acts of Assembly passed February 15, 1765, Chapter 523; September 24, 1789, Chapter 1444; March 16, 1791, Chapter 1534; March 25, 1848, P. L. 250.

## CHAPTER CCCCLV.

AN ACT TO ENABLE THE OWNERS OF GREENWICH ISLAND TO EMBANK AND DRAIN THE SAME, TO KEEP THE OUTSIDE BANKS AND DAMS IN GOOD REPAIR FOREVER, AND TO RAISE A FUND TO DEFRAY SUNDRY CONTINGENT AND YEARLY EXPENSES ACCRUING THEREON.

Whereas the improvement of meadow ground is not only useful to the owners and possessors thereof, but is also of great 3—VI

benefit to the public. And whereas there is a certain island or neck of marsh, meadow and cripple land surrounded by Delaware river, Hollander's and Hay creeks in the townships of Moyamensing and Passyunk, in the county of Philadelphia, named and henceforth to be called Greenwich Island, which island is partly drained and partly open to the overflowing of the tide, the several owners of which propose by banks, dams, sluices and flood-gates near the outside thereof the whole completely to embank and drain; but forasmuch as such improvements are from their own nature subject to many casualties and without constant care and expense not only liable to decay, but the defect of one part is often destructive and ruinous to many, and amongst a number of owners such frequent disputes arise concerning repairs or concerning the means of defraying the necessary expense thereof, that often-times from little neglects great damages ensue, and the heavy charge of many owners rendered ineffectual through the default of a few; to prevent which damages and inconveniences and for the security and encouragement of of the said owners and undertakers of this improvement, they pray that it may be enacted:

[Section I.] And be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said province in General Assembly met, and by the authority of the same, That Joseph Fox, John Hughes, Hugh Roberts, Philip Syng, Matthew Johns, Jacob Lewis and Jacob Cooper are hereby nominated and appointed, authorized and empowered, within two months after the publication of this act to form and divide the said tract of marsh, meadow and cripple into so many allotments, districts or divisions as they [or a majority of them] shall think just and reasonable, having an equitable regard to the particular situation, circumstances and conveniences of the several and respective owners and possessors thereof; which said allotments, districts or divisions so made and signified by any deed or instrument in writing under the hands and seals of any four of them, shall be deemed, taken and held by the owners and possessors of the said island, and every of them, and they are hereby declared to be so many separate and distinct districts and to remain independent of each other forever as to the supporting, amending or repairing the dams, banks, sluices, floodgates and drains hereinafter-directed to be made.

[Section II.] And be it enacted by the authority aforesaid, That the owner or owners, possessor or possessors of every of the said respective districts so to be made of the said marsh, meadow or cripple land lying on or adjoining to the said river Delaware, the said Hollander's creek, or Hay creek, on the said island, not already embanked, shall, under the penalty of ten shillings for each acre to be paid to the treasurer and added to the common stock, within two months from the publication hereof, make or cause to be made a good and sufficient bank across the whole front of all his, her or their lands respectively lying on the said river Delaware, the said Hollander's and Hay creeks, as shall be equally good and sufficient for all the purposes of such banks with any of those already made on the said island, and that all the waters of all and every of the creeks flowing into or upon the said island shall, within the said term of two months, be effectually dammed and stopped out by dams made or to be made at or near the mouths of each and every of the said creeks; that sluices and flood-gates shall be placed to such and so many of the said creeks as shall be sufficient to drain off all the waters that shall hereafter pass through the channels of the same; and that the charges and costs of supporting, maintaining and amending the banks, dams, sluices, flood-gates and drains made or hereafter to be made according to the direction of this act, shall be paid by the owners or possessors of the lands in each district in proportion to the number of acres held by each owner or possessor thereby drained in such district.

So always and provided, That all owners of inland parts shall pay their proportion towards all banks [dams], sluices, flood-gates and drains by which their respective lands are drained as aforesaid.

[Section III.] And be it enacted by the authority aforesaid, That all and every of the said owners or possessors of the said marsh, meadow or cripple land lying on the said island for the time being or at any time or times hereafter or so many of them as shall think fit, may meet and assemble yearly and every year after the publication of this act on the first Monday in July, at the court-house in Philadelphia, or such other convenient place as shall hereafter be appointed by the managers, and then and there by a majority of those met shall choose by ballot five fit persons, owners or possessors of land on the said island, to be managers and one fit person to be treasurer for the year then next ensuing.

[Section IV.] And be it enacted by the authority aforesaid, That if any of the said owners elected managers as aforesaid shall on due notice in writing given him or them of his or their respective election, refuse, or shall afterwards neglect to do the duty required of him or them by this act, he or they so refusing or neglecting shall severally forfeit and pay to the treasurer for the time being the sum of three pounds, to be added to the common stock of the said island, unless he shall have already served three years successively in the said office, which fine shall be recovered in manner hereinafter directed for the recovery of other moneys payable to the treasurer of the said island, and the other managers shall proceed in their duty without him or them so refusing or neglecting, or if they think fit may choose other of the owners to supply the places of such owners so refusing or neglecting as aforesaid until the next ensuing election; and if any person hereafter elected treasurer shall refuse or neglect to take upon him the duties or give the securities hereby required or shall afterwards misbehave himself or be rendered incapable of the duties of the said office, in either of these cases the managers for the time being shall choose another fit person, not a manager, to be the treasurer till the next ensuing election.

[Section V.] And be it enacted by the authority aforesaid, That every treasurer hereafter chosen shall, before he take upon himself the execution of his office, enter into an obligation with one sufficient surety in double the value that doth or probably may come into his hands during the continuance of his office, as near as can be estimated by the managers, conditioned that he will once in three months, or oftener, if required, render his ac-

counts to the said managers and well and truly account and settle with them if required for and concerning all moneys that are or shall come into his hands by virtue of this act or belonging to the owners of the said island, and pay the balance that shall appear on such settlements to be in his hands unto such person or persons or for such services as any three of the managers for the time being shall order and appoint and not otherwise; and that he will, at the expiration of his office, well and truly deliver up and pay the balance of the moneys then remaining in his hands, together with the books of accounts concerning the same and all other papers and writings in his keeping belonging to the owners of the said island unto his successor in the said office, and that he will do and execute all other things as treasurer to the said owners according to the true sense and meaning of this act.

And the said managers for the time being in every year are hereby empowered, authorized and required to enter upon and inspect at least four times in each year the condition of every of the said banks, dams, sluices, flood-gates and other conveniences necessary for stopping out the tide or draining of the water off the said island in each respective district so to be made, and if any of them, or any part of them, shall appear undone, unfinished, damaged, decayed, washed away, destroyed or more liable from situation, nature of soil or other circumstance to be washed away or destroyed than other parts in general, already made or shall be any otherwise insufficient for the purposes aforesaid, they, the said managers, shall consider and determine by what method such part or parts may be made equally safe, good, secure and sufficient with other parts thereof the most secure, having due regard to such places as are most exposed to hard gales of wind and an high surf, the banks and dams there requiring to be widened or guarded with stone work, and on such inspection and determination the said managers shall give notice to and require the said owners or possessors or their guardians (if minors), if within the county of Philadelphia, forthwith to make or amend their and each of their several and respective banks, dams, sluices, flood-gates and other conveniences in such manner as they, the said managers, shall think fit and necessary,

all of which banks shall be [of] sufficient breadth and at least six inches above any tide that has been known.

[Section VI.] And be it enacted by the authority aforesaid, That if at any time hereafter any of the said owners or possessors of any district of the said lands on the said island, or any guardian of minor owners of land therein, so warned by the said managers for the time being, shall refuse or neglect after such warning to make, amend or repair their or any of their respective parts in the permises agreeable to the directions of the said managers, or if any of the said owners or such guardians are not to be found within the said county at the time aforesaid, that then and thereafter as often as it shall so happen, it shall and may be lawful to and for the said managers or any of them, together with such workmen, horses, carts, barrows and tools as they shall think fit, to enter into and upon the said land and premises of him, her or them so neglecting or refusing or not to be found in the said county, and then and there to make or cause to be made, amend and repair the said banks, dams, sluices, flood-gates or all or any other conveniences necessary for stop-, ping out the tide or draining of the waters off the same in such manner and by such ways and means as they shall think fit and reasonable, any law of this province, usage or custom to the contrary in anywise notwithstanding; and that they, the said managers, or any three of them, shall adjust and settle the expense thereof amongst the respective owners of such district in which the repairs shall be so made in manner aforesaid and as they shall think just and reasonable and shall deliver to the possessors, owners or their guardians (of minors) of such district if to be found as aforesaid, their respective bills of the charge or proportion of the charge of the said banks, dams, sluices, floodgates or drains so made or repaired, and shall order payment accordingly; and in case of their or any of their refusal or delay of payment they shall order the treasurer for the time being to advance and pay so much of the public stock as shall be sufficient to satisfy the said charge until it can be obtained from those who ought to pay the same.

Provided always, That nothing herein contained shall be deemed or construed to dissolve any contract made or to be made

between any of the said owners or possessors relating to the premises so that such contracts shall not interfere with or retard the general improvement or security hereby intended.

And in order to establish a fund to defray sundry contingent and yearly expenses and to prevent any delay hereafter for want of ready money in case of inundations or extraordinary accidents.

[Section VII.] Be it enacted by the authority aforesaid, That every owner or possessor of land in each of the said districts aforesaid shall on or before the first Monday of [September] next after the publication hereof pay or deposit or cause to be paid or deposited in the hands of the treasurer aforesaid the sum of two shillings current money of Pennsylvania for each and every acre of land they respectively have, hold, occupy or possess in such district, exclusive of creeks, flats or waste lands; and all and every person, or persons, whether owners or renters, who shall on the first Monday in [September] in every year hereafter be in possession of land on the said island shall in like manner pay or cause to be paid or deposited into the hands of the treasurer for the time being such sum or sums of money as the managers for the time being shall find necessary to assess and order, which sums of money if paid by the said renter, he, the said renter, [shall and] is hereby empowered to deduct out of his rent.

So always and provided, That the sum of one hundred pounds shall in the beginning of every year be in the treasurer's hands ready to be applied in the premises as occasion may require, of all which sums of money and of all other moneys coming to his hands by virtue of this act and of all disbursements and payments thereof from time to time made, the said treasurer shall, in books to be provided for that purpose, keep a just and true, distinct and separate account for each district and shall pay and deliver the same according to the directions and orders of the managers for the time being or some three of them and not otherwise.

[Section VIII.] And it is hereby further enacted by the authority aforesaid, That the managers for the time being shall, before the days herein appointed for payment of the yearly

quotas, deposit money or assessment, cause true lists of the names of all and every of the said owners or possessors of the respective districts aforesaid, with a true account of all and every acre of land in each district respectively which they have, hold or possess, exclusive of creeks, flats or waste land according to the best information they can obtain, noting from time to time the several changes, alterations, transfers and alienations of right in the several parts and parcels thereof as they shall come to their knowledge, and shall furnish the treasurer with true copies thereof, together with the sum per acre of the general assessment for the current year when any alterations shall be made in the above-mentioned sum of two shillings; according to which lists or accounts the said treasurer for the time being shall receive and take the several sums of their and each of their deposit money, respectively, in every year raised or assessed by virtue of this act, and shall cause due and public notice of the said rate or assessment per acre to be given to the owners of the several districts aforesaid at least twenty days before the day of payment in every year hereafter.

And in case any of the said owners or possessors aforesaid shall refuse or neglect to pay or cause to be paid to the treasurer aforesaid on the days and times aforesaid the several sums of money or any part thereof which they respectively ought to pay or deposit according to the true intent and meaning of this act, they and each of them so neglecting or refusing shall forfeit and pay to the said treasurer the additional sum of two pence for every shilling unpaid which they respectively ought to have paid by direction of this act; and in case of neglect or refusal afterwards shall, for every three months' neglect or refusal in like manner, forfeit and pay to the treasurer for the time being the like sum of two pence for every shilling which he, she or they failed of paying on the day or time when they respectively ought to have paid by direction of this act.

[Section IX.] And it is hereby further enacted by the authority aforesaid, That if any of the said owners or possessors shall neglect or refuse as aforesaid to pay the several sums of money, together with the forfeiture arising thereon, which they respectively ought to pay at the time or times hereafter for the

space of twelve months, after any of the days or times in which it ought to have been paid agreeable to the direction and true intent and meaning of this act, or shall have neglected or refused to make, amend or repair his, her or their bank, dam, sluice, flood-gate and drain or any of them or any part which they, the said owners or possessors ought to have done, agreeable to the directions of this act, or shall have refused or neglected to reimburse the treasurer for the time being the necessary expense thereof agreeable to the directions of this act, that then and thereafter it shall and may be lawful to and for the said treasurer, by direction of the said managers, or any three of them, in his own name to sue all and every such person and persons so refusing and neglecting for the respective sum or sums which he, she or they ought to have paid by virtue hereof, by action of debt of five pounds or under, before any one justice of the peace of the county aforesaid, and if above five pounds in any of His Majesty's courts of common pleas within this province and give this act and the said assessment or the said account, as the case may require, in evidence; and the said justice of the peace and the said court are hereby empowered and directed to give judgment and execution for the same, with costs of suit accordingly, to be levied on the tract or piece of marsh, meadow or cripple belonging as aforesaid to such owner or owners so neglecting or refusing, and delivered unto the managers for the time being, who are hereby empowered and authorized to let out on rent any part of the said marsh, meadow or cripple land belonging as aforesaid to any of the said owners who shall neglect or refuse as aforesaid or who shall not be found in the county as aforesaid from year to year, or for so long time as until the rent or rents arising therefrom shall, as nearly as may be computed, pay all such sum or sums of money so assessed or so charged, together with all the forfeitures arising thereon for neglect or refusal to pay the same as aforesaid and no longer.

Provided always, That in letting out of the said marsh, [meadow] or cripple land the said managers do publicly notify the leasing thereof and let the same to the highest bidder at private sale.

[Section X.] And it is hereby enacted by the authority afore-

said, That if by any general overflowing of the water hereafter the banks, dams or sluices belonging to owners of any one district shall be damaged or destroyed by the force of the water from within, which had been admitted by defects in the banks or dams belonging to the owners of other districts, in all such cases the delinquent owners shall pay all the costs of repairs, unless the managers for the time being shall from any circumstances consider it as an act of Providence, in which case they may repair it at the general expense of all the owners of the said island and order the treasurer to pay the charge thereof.

[Section XI.] And be it further enacted by the authority aforesaid, That the managers for the time being, or any three of them, shall have the power of disposing of all moneys paid to the treasurer by virtue of this act and of appointing a person or persons from time to time to enter upon and inspect the condition of all banks, dams, sluices and flood-gates near the outside of the island, and informing the respective owners or the said managers when any repairs are wanting, and may displace such person and appoint others as often as they shall think fit; and the said managers shall have power to dispose of the money in the treasurer's hands as aforesaid for the destruction of such vermin as usually damage the said banks, and for any other general service of the said island.

[Section XII.] And be it further enacted by the authority aforesaid, That the said managers are hereby authorized and empowered in behalf of the said owners, and they shall settle accounts with the treasurer from time to time and shall do and execute all other matters and things pertaining to the general good and benefit of the said owners.

Provided nevertheless, That if any owner or owners shall think him, her or themselves aggrieved by any order or proceeding or account of the said managers, such owner or owners shall choose two fit and disinterested persons, and the said managers or some three of them, shall choose two other fit and disinterested persons, who (or any three of them so chosen as aforesaid) shall finally settle the same and all other matters and things in dispute.

[Section XIII.] And be it enacted by the authority aforesaid,

That the orders of any three of the managers on the treasurer for the time being shall be complied with by the said treasurer, and shall be good vouchers to indemnify him for the payment and delivery of the money and effects committed to his care by virtue of this act; and that all bonds, mortgages, deeds and conveyances in trust for the use of the said owners shall be taken in the name of the treasurer of Greenwich Island and payable to him and his successor, and shall be mentioned to be for the use of the owners thereof, and with or without assignment shall be good and available in law to his successor in the said trust for [the] use of the owners [as] aforesaid, and shall be recoverable in any court of record in this province where the same may [be] cognizable as fully and effectually to all intents and purposes as if the same were private property and duly assigned in all the forms of law; and the receipts and discharges of such succeeding treasurer or treasurers for any such sum or sums of money paid to him or them shall be good and effectual in the law.

[Section XIV.] And be it enacted by the authority aforesaid, That no process, suits or proceedings whatsoever which at any time hereafter shall be commenced, sued or brought before any of the justices of the peace, judges of the common pleas or supreme court in the name of any treasurer of the said island shall be discontinued or put without day by reason of the death, disability or removal of such treasurer, but shall stand good and effectual in law to all intents and purposes notwithstanding such death, disability or removal.

And whereas the well draining and preserving and keeping open the drains of the said meadow land is of great importance to the said owners:

[Section XV.] Be it enacted by the authority aforesaid, That all and every of the said owners shall be allowed, permitted and suffered to discharge all or any of the waters of their respective lands through their natural channels or by a direct course across the land of any other of the said owners as shall by the managers for the time being, or the major part of them; be judged convenient into the main channel, creek or sluice best suiting to discharge the same into the river or into the said Hollander's or Hay creek, and shall be allowed, permitted and suffered to

open, scour and cleanse the same when and as often as they or the said managers shall think convenient or necessary, any law, usage or custom to the contrary in any wise notwithstanding.

Provided always, That such owner so requiring a passage for his water shall first pay all the damages sustained or to be sustained by such neighbor through whose land the water is to be discharged, and also such proportion of the charge of banks, sluices, dams and flood-gates as shall be settled by the said managers.

[Section XVI.] And be it enacted by the authority aforesaid, That if any person or persons shall wickedly and maliciously cut through or break down or damage any of the said banks, sluices, dams or flood-gates, either their own or others, or shall let in any creek or water to annoy, injure or overflow any of their neighbor's lands and shall thereof be convicted before the justices of the county court of quarter sessions of the said county of Philadelphia, in all such cases the person so offending shall be fined treble the value of the damages, to be assessed by two or more indifferent persons to be appointed by the said court to value the same, which fine shall be added to the common stock for the general use and benefit of the owners of the said island.

And whereas several of the said owners who have land on and near the western end of the said island have purchased and left out ground for a public road through a considerable part thereof, and have agreed to continue the same through the lands late of James Lownes, across Hollander's creek, near the plantation of Joseph Turner, Esquire, into the main road of Moyamensing township, and have agreed to advance money for clearing and regulating the same and for erecting a substantial good bridge across the said Hollander's creek for the common use and benefit of themselves and others of the said owners, who may hereafter be accommodated thereby; and lest any dispute should hereafter subsist concerning the use of the said road or bridge or concerning the part, share or proportion of the sum or sums of money which they, the said owners or any of them, may hereafter be required to pay towards the expense of making the said road or the said bridge or towards the necessary repairs of them

or either of them, whereby the undertakers may suffer or some of the said owners be debarred the use and conveniency of the said road or bridge.

[Section XVII.] Be it enacted by the authority aforesaid, That all such disputes, if any shall hereafter arise, shall be settled by the managers aforesaid, and all accounts and demands relating to the disbursements and expense of the said road and bridge or to the repair thereof shall be adjusted by them, the said managers, so that every owner, occupier or possessor who shall have occasion so to do shall, without interruption, use the same or any part thereof, and shall pay in proportion to the number of acres they respectively have accommodated by the said bridge and road, or any part of the said road.

[Section XVIII.] Provided always, and it is hereby enacted by the authority aforesaid, That if any of the said managers shall be immediately interested or concerned in such dispute, some other person or persons fit and disinterested in the case, if the parties require it, shall be chosen as aforesaid by the other managers and by the parties concerned instead of such interested manager or managers, who shall finally settle and adjust the same.

[Section XIX.] And be it further enacted by the authority aforesaid, That all accounts and charges for making the said road or bridge or for repairs of the said road or bridge so settled and adjusted shall be paid by the respective owners on demand, and in case of failure the treasurer for the time being shall have full power and authority to recover the same in manner hereinbefore directed for the recovery of the yearly payments aforesaid.

Provided always, That nothing herein contained shall be deemed or construed to lessen the duty of overseers of roads and highways or of other inhabitants of the said townships of Passyunk or Moyamensing from giving their assistance from time to time as occasion may require to amend so much of the said road as may now or hereafter be recorded as a public road of their respective townships according to the laws and customs of this province. And for the more orderly execution of their duty and trust the said managers are hereby required to meet

at least once in three months on the said island or some other convenient place to confer and conclude concerning the matters hereby committed to them, and shall cause fair minutes of their proceedings to be kept in a book to be provided for that purpose; in every of which meetings the resolutions of any three of them shall be entered on their minutes and deemed and taken as the resolutions of the whole, to which minutes and also to the treasurer's accounts all persons concerned shall have free recourse at all seasonable times.

Passed April 12, 1760. Referred for consideration by the King in Council, January 20, 1761, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXII, Sections I, III and VII, and the Acts of Assembly passed February 15, 1765, Chapter 523; February 21, 1767, Chapter 558; March 22, 1784, Chapter 1085; January 30, 1804, P. L. 29; March 13, 1839, P. L. 85; April 12, 1853, P. L. 369.

#### CHAPTER CCCCLVI.

AN ACT TO PREVENT THE HUNTING OF DEER AND OTHER WILD BEASTS BEYOND THE LIMITS OF THE LANDS PURCHASED OF THE INDIANS BY THE PROPRIETARIES OF THIS PROVINCE AND AGAINST KILLING DEER OUT OF SEASON.

Whereas many disorderly people have made it a practice of hunting on the lands not yet purchased of the Indians, to their great damage and dissatisfaction, which may be attended with fatal consequences to the peace and welfare of this province by destroying that union and harmony which this government [has] lately restored and concluded with the Indians at a very great expense. And whereas many of the industrious inhabitants on the frontiers of this province are thereby discouraged from returning and settling upon the plantations which they were obliged to leave and evacuate during the [late] Indian incursions; therefore, to remedy the great mischiefs which may ensue from the continuance of this evil practice:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas

Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same. That if any person or persons whatsoever, either singly or in companies, after the passing of this act shall presume to hunt, chase or follow any deer, buck, doe, fawn or any other wild beast, wild fowl or game whatsoever or shall set traps for beaver or other beasts without the limits of the lands purchased of the Indians by the proprietaries of this province, such person or persons so offending and being thereof legally convicted in any court of quarter sessions of the county where such offender shall be apprehended (in which said court the same offense is hereby made cognizable) by the oath or affirmation of one or more witnesses or by the confession of the party, every person so offending shall forfeit and pay for every such offense the sum of fifty pounds or suffer twelve months imprisonment without bail or mainprise; one moiety of the above fine shall be paid to the prosecutor and the other moiety to the overseers of the poor of the township, where such offender shall reside, for the use of the poor of the said township, if resident within this province; [if] otherwise where he shall be apprehended.

[Section II.] And be it further enacted by the authority aforesaid, That the constable of each respective township in every county of this province having any knowledge of any offenses against this act shall and he is hereby required, under the penalty of five pounds, to present on oath or affirmation, every such offense to some one justice of the peace of their respective counties or before the justices of the general quarter sessions of the peace for the same county, together with the name or names of all such offenders, that they may be tried agreeable to the directions of this act.

[Section III.] And be it further enacted by the authority aforesaid, That if any person or persons shall, after the publication of this act, hunt, chase or follow, with a design to kill, or shall kill or [destroy] any buck, doe or fawn within the lands already or hereafter to be purchased of the Indians at any other

time or season excepting only between the first day of the month of August and the first day of the month of January, and shall be lawfully convicted thereof by the oaths or affirmations of one or more credible witnesses or the confession of the party before one or more justices of the peace for the respective county where such offense shall be committed, he or they shall forfeit and pay the sum of three pounds for every such offense to the uses aforesaid, provided such conviction be made within six months after such offense committed.

And for the more certain convicting of offenders against this act:

[Section IV.] Be it further enacted by the authority aforesaid, That every person in whose custody shall be found or who shall expose to sale any green deer skins, fresh venison or deer's flesh at any other time of the year than what is before excepted, such green deer skins, fresh venison or deer's flesh shall be deemed and taken as evidence of the guilt of the person in whose custody the same shall be found.

Provided always, That nothing contained in this act shall be deemed or construed to extend to any free native Indians carrying guns, hunting, killing and having in their custody any skins or deer's flesh for their own use, anything in this [act] to the contrary notwithstanding.

And whereas divers abuses, damages and inconveniences have arisen by persons carrying guns and presuming to hunt on other people's lands, for remedy whereof for the future:

[Section V.] Be it enacted by the authority aforesaid, That if any person or persons shall presume at any time after the publication of this act to carry any gun or hunt on any inclosed or improved lands of any of the inhabitants of this province other than his own unless he shall have license or permission from the owner of such lands, or shall presume to fire a gun on or near any of the King's highways and shall be thereof convicted, either upon view of any justice of the peace within this province or by the oath or affirmation of any one or more witnesses before any justice of the peace, he shall for every such offense forfeit the sum of forty shillings.

[Section VI.] And be it further enacted by the authority

aforesaid, That no person whatsoever shall presume to shoot at or kill with a fire-arm any pigeon, dove, partridge or other fowl in the open streets of the city of Philadelphia, or in the gardens, orchards and inclosures adjoining upon and belonging to any of the dwelling-houses within the limits of the said city or suburbs thereof, or any of the boroughs or towns within this province upon the forfeiture of forty shillings for every such offense, to be convicted in manner aforesaid.

[Section VII.] And be it further enacted by the authority aforesaid, That if any person or persons shall hunt or kill any kind of game on the Sabbath day and shall be convicted thereof in manner last aforesaid, every such offender shall forfeit and pay the sum of forty shillings for every such offense.

All which penalties and forfeitures not hereinbefore appropriated shall be paid, one moiety thereof to the informer and the other to the overseers of the poor of the township where such offense is committed for the use of the poor of the [said] township, but if convicted upon view of a justice of the peace the whole forfeiture shall be paid to the overseers of the poor of the said township for the use of the poor of said township; and if the offender refuse to pay, the same shall be levied by distress and sale of the offender's goods by warrant under the hand and seal of the justice before whom such offender shall be convicted, returning the overplus, if any, to the owner, the charge of distraining being first deducted; and for want of such distress he shall be committed to prison, where the forfeiture is three pounds, for the space of thirty days; and where the forfeiture is forty shillings, for the space of twenty days, without bail or mainprise; and if such offender be a negro or mulatto slave, he shall, instead of such imprisonment, be publicly whipped at the discretion of the magistrate, not exceeding thirty-one lashes, unless the master or mistress of such slave shall pay the fine or fines hereby inflicted.

[Section VIII.] And be it enacted by the authority aforesaid, That the act, entitled "An act to prevent the killing of deer out of season and against carrying of guns and hunting by persons not qualified," 1 and the act, entitled "A supplement to the law,

<sup>&</sup>lt;sup>1</sup> Passed August 26, 1721, Chapter 246.

entitled 'An act to prevent the killing of deer out of season, and against carrying of guns and hunting by persons not qualified,' "<sup>2</sup> and an act, entitled "An act for amending the laws of this province against killing of deer out of season," <sup>3</sup> and every article, clause and thing in the said acts and each and every of them contained shall be and hereby are declared to be repealed, null and void to all intents and purposes whatsoever.

Passed April 9, 1760. Referred for consideration by the King in Council, January 20, 1761, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXII, Sections I, III and VII.

As to Sections I-IV, see the Acts of Assembly passed April 8, 1840, P. L. 250; March 4, 1841, P. L. 55; April 29, 1844, P. L. 524; April 11, 1845, P. L. 370; March 3, 1848, P. L. 97; March 24, 1848, P. L. 223; (the two acts of) April 10, 1849, P. L. 549, 631; April 2, 1850, P. L. 319; (the two acts of) April 30, 1850, P. L. 633, 634; May 15, 1850, P. L. 1056; March 24, 1851, P. L. 213; (the two acts of) April 10, 1851, P. L. 406, (1856) 588; April 11, 1851, P. L. 799; (the two acts of) April 12, 1851, P. L. 424, 452; April 9, 1852, P. L. 300; March 3, 1853, P. L. 701; March 11, 1853, P. L. 169; April 2, 1853, P. L. 285; April 14, 1853, P. L. 422; April 18, 1853, P. L. 831; April 20, 1854, P. L. 413; February 10, 1855, P. L. 27; March 29, 1856, P. L. 182; April 8, 1857, P. L. 174; May 20, 1857, P. L. 606; March 19, 1858, P. L. 131; April 22, 1858, P. L. 455; March 24, 1859, P. L. 220; March 30, 1859, P. L. 306; April 2, 1859, P. L. 346; (the two acts of) April 14, 1859, P. L. 645, 653; March 21, 1860, P. L. 217; March 26, 1860, P. L. 267; March 30, 1860, P. L. 373; April 2, 1860, P. L. 507; March 22, 1861, P. L. 179; (the two acts of) May 1, 1861, P. L. 550, 643; February 21, 1862, P. L. 40; March 27, 1862, P. L. 214; April 9, 1862, P. L. 350; April 10, 1862, P. L. 374; April 18, 1864, P. L. 468; February 27, 1865, P. L. 205; March 22, 1865, P. L. 539; March 27, 1866, P. L. 330; (the two acts of) April 4, 1866, P. L. 492, 508; (the three acts of) April 11, 1866, P. L. 564, 707, 746; March 14, 1867, P. L. 455; April 13, 1867, P. L. 1219; February 28, 1868, P. L. 245; March 24, 1868, P. L. 442; April 11, 1868, P. L. 853; April 13, 1868, P. L. 1058; February 5, 1869, P. L. 113; (the two acts of) February 18, 1869, P. L. 185, 202; February 19, 1869, P. L. 227; April 15, 1869, P. L. 1089; April 17, 1869, P. L. 1149; April 21, 1869, P. L. 84; February 10, 1870, P. L. 126; April 5, 1870, P. L. 50; April 28, 1871, P. L. 245; May 5, 1871, P. L. 570; May 6, 1871, P. L. 606; May 12, 1871, P. L. 779; June 2, 1871, P. L. 288; March 23, 1872, P. L. 530; May 1, 1873, P. L. 89; May 1, 1874, P. L. 291; May 25, 1874, P. L. 299; March 18, 1875, P. L. 26; May 4, 1876, P. L. 207; May 5, 1876, P. L. 104; March 24, 1877, P. L. 45; (the two acts .of) June 3, 1878, P. L. 157, 160; June 4, 1879, P. L. 91; June 10, 1881, P. L. 92; June 27, 1883, P. L. 163; (the two acts of) June 26, 1895, P. L. 390, 391; June 27, 1895, P. L. 403; June 4, 1897, P. L. 123.

<sup>&</sup>lt;sup>2</sup> Passed February 6, 1730-31, Chapter 323.

<sup>3</sup> Passed January 27, 1749-50, Chapter 383.

As to Section V, see the Acts of Assembly passed March 7, 1821, P. L. 84; April 11, 1844, P. L. 250; March 31, 1860, P. L. 427; March 6, 1868, P. L. 274; October 29, 1873, P. L. (1874) 442.

As to Section VII, see the Acts of Assembly passed March 30, 1779, Chapter 833; September 25, 1786, Chapter 1248; April 22, 1794, Chapter 1758; April 21, 1869, P. L. 84; May 1, 1873, P. L. 89; May 5, 1876, P. L. 104; June 3, 1878, P. L. 160; June 4, 1897, P. L. 123.

### CHAPTER CCCCLVII.

AN ACT FOR REGULATING THE OFFICERS AND SOLDIERS IN THE PAY OF THIS PROVINCE.

Whereas by an act of general assembly of this province passed in the present year of His Majesty's reign, entitled "An act for granting to His Majesty the sum of one hundred thousand pounds and for striking the same in bills of credit," &c.,¹it is provided and enacted that the sum of one hundred thousand pounds be granted to His Majesty's use for and towards raising, paying and clothing two thousand seven hundred effective men (officers included) to act in conjunction with a body of His Majesty's British forces in such offensive operations as shall be carried on and prosecuted by His Majesty's commander in chief in these parts during the ensuing campaign and for other purposes for His Majesty's use. And whereas numbers of armed men assembled together without any clear and express law for their government may become dangerous to the King's peace, ruinous to each other and of little service to the public, therefore:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all officers commissionated and in pay or that shall hereafter be commissionated and in pay, and such soldiers as

<sup>1</sup>Passed April 12, 1760, Chapter 453.

have been regularly enlisted or shall voluntarily engage or be enlisted at any time after the publication of this act, shall be for their better government subject to the same laws, rules, duties and trials and be liable to the same punishments during the continuance of this act as they would be by virtue of an act of Parliament passed in the thirty-third year of the present reign, entitled "An act for punishing mutiny and desertion," &c., if joined by any of His Majesty's British forces.

And forasmuch as there is at present no commission or warrant from the Crown to the Governor of this province for the holding general courts-martial within the same:

[Section II.] Be it further enacted by the authority aforesaid, That the governor or commander in chief of this province for the time being may from time to time grant commissions under the great seal to any officers not under the degree of a field officer for the holding general courts-martial within this province, which shall consist of the same number of officers of the like rank and shall have the same powers and authorities and shall proceed in the same manner as in the said act of Parliament is directed and prescribed, in which courts-martial all the offenses specified in the said act of Parliament and His Majesty's Articles of War committed by such officers or soldiers shall be tried and proceeded against in such manner as by the said act and articles is directed.

Provided, That all and every officer or officers presiding at any trial or trials whereupon sentence of death shall be adjudged and given against any officer or soldier by virtue and in pursuance of the said act of Parliament, shall transmit as soon as may be to the governor or commander in chief for the time being a fair transcript of their proceedings and sentences under their hands and seals, and that the execution of such sentences shall be suspended until the pleasure of the governor or commander in chief be known and his warrant, under the great seal, be received for the same.

[Section III.] Provided nevertheless, That nothing herein contained shall extend or be construed to exempt any officer or soldier whatsoever from being proceeded against by the ordinary course of the law, or to authorize the enlisting of indented

servants or apprentices, or to bring over any part of the said act of parliament not relating to the government of soldiers, the manner of enlisting them, the offenses punishable by sentence of court-martial, the mode of trial and the punishments to be inflicted, anything herein contained to the contrary notwithstanding.

This act to continue and be in force until the twenty-fifth day of March, one thousand seven hundred and sixty-one, and from thence to the end of the next sitting of assembly, and no longer.

Passed April 12, 1760. Referred for consideration by the King in Council, January 20, 1761, but expired before any action was taken. See Appendix XXII, Sections I, III and VII, and the Acts of Assembly passed March 14, 1761, Chapter 464; July 8, 1763, Chapter 501.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1760, and continued by adjournments until the twenty-sixth day of September, 1761, the following acts were passed:

### CHAPTER CCCCLVIII.

AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF THE NORTH-ERN DISTRICT OF KINGSESS MEADOW LAND, IN THE COUNTY OF PHILADELPHIA, TO KEEP THE BANKS, DAMS, SLUICES AND FLOOD-GATES IN REPAIR, AND TO RAISE A FUND TO DEFRAY THE EX-PENSE THEREOF.

Whereas the great advantages accruing to the public by the industry of private persons in banking, clearing and draining large quantities of marshy and drowned lands at a great expense is well known, but the difficulties that the owners and possessors of these tide meadows on the rivers Delaware and Schuylkill are subject to for want of a legal authority to enforce proper methods and regulations in the management of the same amongst themselves render them less beneficial, as well to the public as to such [industrious] undertakers.

And whereas there is a certain parcel of meadow land and marsh situate in the township of Kingsess on the west side of the river Schuylkill, beginning at David Gibson's fast land and running thence along the west side of the said river by the several courses thereof, to the mouth of Incorn's Kill, now called Charles Justice's creek, thence up the said creek on the northeast side thereof to Charles Justice's island, thence from the said island along an old bank to the fast land; thence by Charles Justice's, Jonathan Paschall's and John Tower's lands and by other lands of Jonathan Paschall to the Hay road, thence along by the said Hay road and by the several courses of a neck of fast

land to the place of beginning, named and henceforth to be called The Northern District of Kingsess Meadow, which, for a considerable time past, has been embanked, but of late has been greatly impaired and out of order for want of proper management and regulations:

[Section I.] Therefore, be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietors of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That Hugh Roberts, Enoch Flower, Samuel Rhoads, Andrew Bankson, Joseph Johnson and John Smith, or any four of them, are hereby nominated, authorized and appointed within two months after the publication of this act to divide the banks which surround and include all that the said tract or piece of marsh and meadow land, and allot and appoint how many perches of the said bank each owner or possessor of the said tract shall make, repair, maintain and support in proportion to the number of acres of meadow he holds therein, having an equitable regard to the quality, situation and circumstances of the ground or part so to be allotted; all which said allotments and divisions so made, and signified by an instrument in writing under the hands and seals of any four of them, shall be the proper shares, parts, proportions and quantities of bank for the several owners or possessors of the said meadow to make, repair and support at their own proper expense and charge.

[Section II.] And be it further enacted by the authority aforesaid, That the owners, occupiers and possessors of the said tract of meadow land respectively whose allotments, shares or parts of the bank are in any wise defective shall, within three months from the publication hereof, cause them to be put in good and substantial repair, and make up or cause their respective parts of the banks so as aforesaid allotted to be made up level on the top and sufficiently strong and secure to defend the said meadows from all inundations, for which end the said banks shall always be kept at least six inches above all tides by each

and all of the said owners, possessors or occupiers on their and each of their parts so as aforesaid to them respectively allotted, under the penalty of ten shillings per acre, to be paid to the said company's treasurer by the persons so neglecting or refusing, to be levied by the managers for the said district hereafter to be chosen if they see cause and added to the common stock.

[Section III.] And be it further enacted by the authority aforesaid, That the costs and charges of making, maintaining and amending the dams, sluices or flood-gates made or hereafter to be made shall be paid by all the owners, occupiers or possessors of the land in the said district according to the number of acres that they and each of them shall hold, possess and occupy, the same to be made, supported and amended in such manner as the managers for the said district hereafter to be chosen shall direct.

[Section IV.] And be it enacted by the authority aforesaid, That it shall and may be lawful for the owners of the said Northern District of Kingsess Meadow or as many of them as shall think fit to meet together on the second Monday in May yearly and every year at the court-house in Philadelphia, or such other convenient place as shall hereafter be appointed by the managers to be chosen by virtue of this act, and then and there by a majority of those met, shall choose by ballot five fit persons, owners or possessors of land in said district, to be managers, and one fit person to be treasurer for the said Northern District Company for the year then next ensuing.

[Section V.] And be it enacted by the authority aforesaid, That if any of the owners or possessors elected managers as aforesaid, on due notice given in writing of his election by some of the company present at the said election, shall refuse or afterwards neglect to do the duty required of him or them by this act, he or they so refusing or neglecting his duty shall forfeit and pay to the treasurer for the time being the sum of forty shillings, to be added to the common stock of the district, unless he shall have served two years successively in the said office, which fine shall be recovered in the manner hereinafter directed for the recovery of other money payable to the treasurer of the said district, and the other managers shall proceed in the execution of

their office without him or them, or, if they think fit, may choose others of the said owners or possessors to be manager or managers in the place of him or them so refusing or neglecting. And if the person so elected treasurer shall refuse or neglect to take upon him the duties or to give the securities required by this act, or shall misbehave himself or by death or otherwise be rendered incapable to execute the said office, in any of these cases the managers for the time being shall choose another fit person (not a manager) to be the treasurer for that year.

[Section VI.] And be it enacted by the authority aforesaid, That every treasurer hereafter to be chosen shall, before he takes upon him the execution of his office, enter into an obligation, with at least one sufficient surety in double the value of the money that doth or may probably come into his hands during the continuance of his office, as near as can be estimated by the managers, conditioned that he will, once in every three months or oftener if required, render his accounts to the said managers and well and truly account, adjust and settle with them when required for and concerning all moneys that are or shall come to his hands by virtue of this act or that belong to the owners of the land in the said district, and shall well and truly pay the balance that shall appear on such settlement to be in his hands to such persons and to such services as any three of the managers for the time being shall order and appoint and not otherwise, and that he will, at the expiration of his office, well and truly pay or cause to be paid and delivered all the money then remaining in his hands, together with the books of accounts concerning the same and all other papers and writings in his keeping belonging to the owners of the lands of the said Northern District of Kingsess Meadow unto his successor in the said office, and that he will do and execute all other matters and things as treasurer to the said owners according to the true sense and meaning of this act.

[Section VII.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said managers, as often as they shall see occasion, to meet together and lay such assessments and taxes on every acre of land in the said district as they shall judge to be necessary for the benefit and security of the same.

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And the said managers for the time being in every year are hereby empowered, authorized and required to enter upon and inspect, at least four times in each year, the condition of all the said banks, dams, sluices, flood-gates and other conveniences necessary for stopping out the tides or draining the water from the said meadows, and if any part shall appear unfinished, damaged, decayed or destroyed, or more liable by its situation, nature of the soil or other circumstances to be washed away or destroyed than other parts, or shall be in any manner insufficient for the purposes aforesaid, they, the said managers, shall consider and determine by what method such part or parts may be made good and secure by stone or other firm and durable materials, and on such inspection and determination the said managers shall give notice to and require the said owners or possessors or their guardians (if minors) and within the county of Philadelphia forthwith to amend their and each of their parts or allotments in such manner as they shall direct; all of which banks shall be of sufficient breadth and at least six inches above any tide that hath been known; and if such extraordinary work shall be directed by the managers to be done for the mending and supporting of any such parts of the banks as are or have been allotted as aforesaid so to be made, mended or supported by any of the particular owners or possessors, then the expense and costs of such extraordinary work shall not be put on the person to whom that allotment was made, but shall be allowed to him and paid out of the common stock, he contributing his proportionable share and part thereto.

[Section VIII.] And be it enacted by the authority aforesaid, That if by any general overflowing of the water hereafter the banks, dams or sluices belonging to owners of any one allotment shall be damaged or destroyed by the force of the water from within which had been admitted by defects in the banks or dams belonging to the owners of other allotments, in all such cases the delinquent owners shall pay all the costs of repairs unless the managers for the time being shall, from any circumstances, consider it as an act of Providence, in which case they may repair it at the general expense of all the owners of the said Northern District and order the treasurer to pay the charge thereof.

[Section IX.] And be it enacted by the authority aforesaid, That if any of the said owners, occupiers of the land in the said district or any guardian of a minor owner thereof so warned by the said managers, shall refuse or neglect after such warning to amend and repair their respective parts, agreeable to the direction of the said managers, or if any of the said owners or guardians are not known or readily to be found within the said county at the time aforesaid, that then and as often as it shall so happen it shall and may be lawful to and for the said managers, or any of them, together with such workmen, horses, carts, barrows and tools as they shall think necessary, to enter into and upon the lands of him, her or them where such breach or defect should happen to be, and then and there to dig and carry earth or purchase suitable materials to make, amend and repair the said banks, dams, sluices, flood-gates and all other conveniences necessary for stopping out the tide or for draining the waters off the meadows in such manner and by such ways and means as they shall think fit and reasonable, any law of this province, usage or custom to the contrary in any wise notwithstanding; and they, the said managers, or any three of them, shall adjust and settle the expense thereof with those to whom such parts or shares of the banks so amended and repaired were before allotted as they shall think just and reasonable, except, as is before mentioned, in case of any extraordinary expense arising from its situation, nature of the soil or other circumstances, in all which cases the extraordinary charge, beyond what other allotments are subject to, shall be paid out of the common stock, and shall also deliver to the said owners, guardians or possessors of the said meadow land on whose allotments such repairs shall be made or to as many of them as shall be found, their respective bills of the charge of repairing the said part of the bank to them before allotted and shall order payment accordingly; and in case of their or any of their refusal or delay of payment they shall order the treasurer for the time being to advance and pay so much out of the public stock as shall be sufficient to satisfy the said charge until it can be obtained of those who ought to pay the same.

And in order to establish a fund to defray sundry contingent

and yearly expenses and to prevent any delay hereafter for want of money in case of inundations or extraordinary accidents:

[Section X.] Be it enacted by the authority aforesaid, That every owner or possessor of land in the aforesaid meadow tract shall, on or before the second Monday in June next, after publication hereof, pay or cause to be paid or deposited in the hands of the treasurer aforesaid the sum of two shillings current money of Pennsylvania for each and every acre they respectively have, hold, occupy or possess in the said district, exclusive of flats, creeks or waste lands, and all and every person or persons whether owners or renters who shall on the second Monday in June in every year hereafter be owner, occupier or possessor of meadow land in the said tract shall, in like manner, pay or deposit, or cause to be paid or deposited, into the hands of the treasurer for the time being, such sum or sums of money as the managers for the time being shall find necessary to assess and order, which sum, if paid by the aforesaid renter, he, the said renter, shall and is hereby empowered to deduct out of his rent.

So always and provided, That the sum of thirty pounds shall, in the beginning of every year, be in the treasurer's hands, ready to be applied in the premises as occasion may require, of all which sums of money and all other money coming to his hands by virtue of this act, and of all disbursements and payments thereof from time to time made, the said treasurer shall, in books to be provided for that purpose, keep a just and true account, and shall pay and deliver the same according to the directions and orders of the managers for the time being, or any three of them, and not otherwise.

[Section XI.] And be it further enacted by the authority aforesaid, That the managers for the time being shall, before the day herein appointed for the payment of the yearly quotas, deposits, money or assessment, cause a true list of the names of all and every of the said owners or possessors, with a true account of all and every acre of meadow in the aforesaid tract which they respectively have, hold, occupy and possess, exclusive of flats and creeks, according to the best information they can obtain, noting from time to time the several changes, alterations, transfers and alienations of right in the several parts and

parcels thereof as they shall come to their knowledge and shall furnish the treasurer with a true copy thereof, together with the sum per acre of the general assessment for the current year when any alteration shall be of the aforesaid deposit of two shillings, according to which list or account the treasurer for the time being shall receive and take the several sums of their and each of their deposit money and assessment respectively in every year raised or assessed by this act, and shall cause public notice of the said rate or assessment per acre to be given at least ten days before the day of payment in every year hereafter; and in case any of the said owners, occupiers or possessors aforesaid shall refuse or neglect to pay or cause to be paid to the treasurer aforesaid on the days and times aforesaid, the several sums of money which they respectively ought to pay or deposit, according to the true intent and meaning of this act, they and each of them so neglecting and refusing shall forfeit and pay to the said treasurer the additional sum of two pence for every shilling unpaid which they respectively ought to have paid by the direction of this act, and afterwards shall, for every three months' neglect or refusal, in like manner forfeit and pay to the treasurer for the time being the like sum of two pence for every shilling which he, she or they failed of paying on the day or time appointed when they respectively ought to pay by the direction of this act.

[Section XII.] And be it further enacted by the authority aforesaid, That if any of the said owners, possessors or occupiers shall neglect or refuse as aforesaid to pay the several sums of money, together with the forfeitures arising thereon, which they respectively ought to pay at any time or times hereafter for the space of twelve months, after any of the days or times in which it ought to be paid, or shall have neglected or refused to make, amend or repair his, her or their part or share of the bank so as aforesaid to them allotted, or shall have neglected or refused to reimburse the treasurer for the time being the necessary expense thereof, agreeable to the direction of this act, that then and so often it shall and may be lawful to and for the said treasurer, by direction of the said managers, or any three of them, in his own name to sue all and every such person

or persons so refusing or neglecting for the respective sum or sums of money which he, she or they ought to have paid by virtue hereof by action of debt, if five pounds or under, before any justice of the peace of the county or in any court of record where the same may be cognizable, and give this act and the said assessment or the said account, as the case may require, in evidence; and the said justice of the peace and the said court are hereby empowered and directed to give judgment and grant execution for the same, with costs of suit accordingly, to be levied on the tract or piece of marsh, meadow or cripple belonging as aforesaid to such owner or owners so neglecting or refusing, and delivered unto the managers for the time being, who, or any three of them, are hereby empowered and authorized to let out on rent any part of the said meadow belonging to any of the said owners who shall so neglect or refuse or who shall not be found in the county as aforesaid from year to year for so long time as until the rent or rents arising therefrom shall, as nearly as may be computed, pay all such sum or sums of money so assessed or so charged, together with all costs and forfeitures arising thereon for his or their neglect or refusal to pay the same as aforesaid, and no longer.

Provided always, That in letting out the said meadow the said managers do publicly notify the leasing thereof and let the same to the highest bidder at private sale or bargain.

[Section XIII.] And be it enacted by the authority aforesaid, That no process, suit or proceedings whatsoever which at any time hereafter shall be commenced, sued or brought before any of the justices of the peace or judges or justices of the common pleas or supreme court or before any magistrate of this province in the name of any treasurer of the said company of the Northern District of Kingsess Meadow, by direction of the said managers, or any three of them, shall be discontinued or put without day by reason of the death, disability or removal of such treasurer, but shall stand good and effectual in law to all intents and purposes notwithstanding such death, disability or removal.

[Section XIV.] And it is hereby enacted by the authority aforesaid, That the managers for the time being, or any three of them, shall have the power of disposing of all moneys paid to

the treasurer by virtue of this act, and of hiring and appointing, at the expense of the said company, any person or persons from time to time to inspect the condition of all the banks, dams, sluices or flood-gates belonging to the owners of the said meadow land, and to inform the respective owners or the said managers when any repairs are wanting, and may displace such person or persons and appoint others as often as they shall think fit, and the said managers shall have power to offer and pay such rewards as they think necessary out of the common stock for the destruction of such vermin as usually damage the said banks and dams, as well as for other general services of the said district.

[Section XV.] And be it further enacted by the authority aforesaid, That the said managers for the time being, or any three of them, are hereby authorized and empowered, in behalf of the said owners, to settle accounts with the treasurer from time to time, and shall do and execute all other matters and things pertaining to the general good and benefit of the said owners.

Provided nevertheless, That if any owner or owners shall think him, her or themselves aggrieved by any order, account or proceeding of the said managers, such owner or owners shall, if he or they think proper, choose two fit and disinterested persons, and the said managers, or three of them, shall choose two other fit and disinterested [persons], who (or any three of them) shall finally settle the same and all other matters and things in dispute that shall be referred to them by the said parties.

[Section XVI.] And be it further enacted by the authority aforesaid, That the orders of any three of the managers on the treasurer for the time being shall be complied with by the said treasurer and shall be good vouchers to indemnify him for the payment and delivery of the money and effects committed to his care by virtue of this act, and that all bonds, mortgages, deeds and conveyances in trust for the use of the said owners shall be taken in the name of the treasurer of the Northern District of Kingsess Meadow and be payable to him and his successors and shall be mentioned to be for the use of the owners thereof, and

with or without assignment, shall be good and available in law to his successor or successors in the said trust for the use of the owners as aforesaid and shall be recoverable in any court of record in this province where the same may be cognizable, as fully and effectually to all intents and purposes as if the same were private property and duly assigned in all the forms of law; and the receipts and discharges of such succeeding treasurer or treasurers for any such sum or sums [of] money paid to him or them shall be effectual in law.

And whereas the well draining, preserving and keeping open the drains of the said meadow land is of great importance to the said owners:

[Section XVII.] Be it enacted by the authority aforesaid, That all and every of the said owners shall be allowed, permitted and suffered to discharge all or any of the waters of their respective lands through their natural channels or by a direct course across the land of any other of the said owners as shall by the managers for the time being, or the major part of them, be judged convenient into the main channel, creek or sluice best suiting to discharge the same into the river, and shall be allowed to open, scour and cleanse the same when and as often as they, or the said managers, shall think convenient or necessary, any law, usage or custom to the contrary in any wise notwithstanding.

Provided always, That such owner so requiring a passage for his water shall first pay all the damages sustained, or that shall be sustained by such neighbor through whose land the water is to be discharged, and also all such damages as shall be done to the banks within his said neighbor's allotment in such manner and proportion as shall be settled by a majority of said managers.

[Section XVIII.] And be it enacted by the authority aforesaid, That if any person or persons shall wickedly and maliciously cut through and break down or endamage any of the said banks, dams, sluices or flood-gates, either their own or others, or shall let in any creek or water to annoy, injure or overflow any of their neighbor's lands, and shall thereof be convicted before the justices of the court of quarter sessions of the said county of Philadelphia, in all such cases the persons so offending shall be fined treble the value of all the damages, to be assessed by two or more indifferent persons to be appointed by the said court to value the same, which fine shall be added to the common stock for the general use and benefit of the said district.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Act of Assembly passed February 15, 1765, Chapter 523. Repealed by the Act of Assembly passed February 18, 1769, Chapter 585.

# CHAPTER CCCCLIX.

AN ACT FOR REGULATING WAGONERS, CARTERS, DRAYMEN AND PORTERS WITHIN THE CITY OF PHILADELPHIA AND FOR OTHER PURPOSES THEREIN MENTIONED.

Whereas many inconveniences and obstructions have arisen to the trade and commerce of the city of Philadelphia and great extortion and injustice been done the merchants and traders thereof and other persons within the same for want of a due and proper regulation of the wagoners, carters, draymen and porters within the said city and for want of a just limitation of the price and value of the portage, carriage and other labor and service of the said wagoners, carters, draymen and porters in their respective occupations within the said city:

[Section I.] Be it therefore enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute proprietaries of the province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That no person or persons whatsoever from and after the sixth day of April next ensuing the publication of this act shall follow the employ, business or occupation of a wagoner, carter, drayman or porter within the city of Philadelphia with-

out having first made application to the clerk of the court of quarter sessions of the peace for the said city of Philadelphia, and registered, or caused to be registered, his or their name and names, and caused or procured his or their carriage or carriages intended by him or them to be used in the said business to be numbered in a book by him, the said clerk, to be kept for that purpose, and without procuring and receiving from the said clerk a certificate of such registry, containing the number of his or their respective carriage or carriages, under the penalty of five shillings for every day he shall so follow the said business, which said certificate the said clerk is hereby enjoined and required to make out in writing under his hand and to deliver to the person who shall apply for the same, for which registry and certificate he shall receive the sum of two shillings and no more.

Provided always, That nothing hereinbefore contained shall extend to carriers and others residing in the country and bringing or carrying their effects to or from the city, or to any person or persons keeping or employing any such carriages for their own use only.

[Section II.] And be it further enacted by the authority aforesaid, That all and every wagoner, carter, drayman and porter following the business aforesaid within the said city shall number, or cause to be numbered, their several and respective carriages on the outside of each shaft with the same figures and numbers as shall be so as aforesaid entered in the said book and contained in his or their respective certificates and none other, in large figures, not less than two inches in length, to be made of good, strong, durable tin or copper, and that all and every such wagoner, carter, drayman or porter who shall follow the said business or employment with any carriage not numbered according to the directions aforesaid or when numbered shall wilfully deface the same or shall neglect to keep them plain and visible, shall, for each and every such offense, forfeit and pay the sum of five shillings for every day he shall use or employ such carriage not marked and registered as aforesaid.

[Section III.] And be it further enacted by the authority aforesaid, That if any wagoner, carter, drayman or porter found in the streets or on the wharves with his horse or horses and

carriages and not in actual service, shall refuse or neglect to work when called on at seasonable hours by any merchant or other person whatsoever he shall forfeit and pay the sum of five shillings for every such offense.

[Section IV.] And be it further enacted by the authority aforesaid, That the mayor and recorder, or either of them, and the aldermen of the city of Philadelphia, with the wardens of the said city, shall meet on the first Monday in March and November in every year or oftener, as occasion may require, at the courthouse in the said city, when and where the said mayor and recorder, or either of them, and the major part of the said aldermen met, with the assistance and consent of the said wardens, or any four of them, shall and may fix, regulate and ascertain the rates and prices which the said wagoners, carters, draymen and porters shall from time to time demand and receive for carrying and transporting commodities from one place to another within the said city, and shall also fix and appoint certain places in the city where it may be most convenient for the said wagoners, carters, draymen and porters to repair with their carriages when unemployed, an advertisement whereof shall be published in the public Gazette and in such other manner as they, the said mayor, recorder and aldermen, together with the wardens aforesaid shall think proper.

And that if any wagoner, carter, drayman or porter shall demand more for his service and labor than is fixed and ascertained in the rates settled as aforesaid, he shall forfeit and pay the sum of five shillings for every such offense.

[Section V.] And be it further enacted by the authority aforesaid, That if any wagoner, carter, drayman or porter shall bring his wagon, cart or dray on the brick pavement before the door of any inhabitant without having obtained leave from the possessor of such house, he shall forfeit and pay for every such offense the sum of two shillings; and that no wagoner, carter, drayman or porter shall suffer his horse or horses to go faster than a slow pace or trot within the built parts of the city under the penalty of ten shillings for every such offense.

[Section VI.] And be it further enacted by the authority aforesaid, That no person or persons whatsoever shall permit

And the said managers for the time being in every year are hereby empowered, authorized and required to enter upon and inspect, at least four times in each year, the condition of all the said banks, dams, sluices, flood-gates and other conveniences necessary for stopping out the tides or draining the water from the said meadows, and if any part shall appear unfinished, damaged, decayed or destroyed, or more liable by its situation, nature of the soil or other circumstances to be washed away or destroyed than other parts, or shall be in any manner insufficient for the purposes aforesaid, they, the said managers, shall consider and determine by what method such part or parts may be made good and secure by stone or other firm and durable materials, and on such inspection and determination the said managers shall give notice to and require the said owners or possessors or their guardians (if minors) and within the county of Philadelphia forthwith to amend their and each of their parts or allotments in such manner as they shall direct; all of which banks shall be of sufficient breadth and at least six inches above any tide that hath been known; and if such extraordinary work shall be directed by the managers to be done for the mending and supporting of any such parts of the banks as are or have been allotted as aforesaid so to be made, mended or supported by any of the particular owners or possessors, then the expense and costs of such extraordinary work shall not be put on the person to whom that allotment was made, but shall be allowed to him and paid out of the common stock, he contributing his proportionable share and part thereto.

[Section VIII.] And be it enacted by the authority aforesaid, That if by any general overflowing of the water hereafter the banks, dams or sluices belonging to owners of any one allotment shall be damaged or destroyed by the force of the water from within which had been admitted by defects in the banks or dams belonging to the owners of other allotments, in all such cases the delinquent owners shall pay all the costs of repairs unless the managers for the time being shall, from any circumstances, consider it as an act of Providence, in which case they may repair it at the general expense of all the owners of the said Northern District and order the treasurer to pay the charge thereof.

[Section IX.] And be it enacted by the authority aforesaid, That if any of the said owners, occupiers of the land in the said district or any guardian of a minor owner thereof so warned by the said managers, shall refuse or neglect after such warning to amend and repair their respective parts, agreeable to the direction of the said managers, or if any of the said owners or guardians are not known or readily to be found within the said county at the time aforesaid, that then and as often as it shall so happen it shall and may be lawful to and for the said managers, or any of them, together with such workmen, horses, carts, barrows and tools as they shall think necessary, to enter into and upon the lands of him, her or them where such breach or defect should happen to be, and then and there to dig and carry earth or purchase suitable materials to make, amend and repair the said banks, dams, sluices, flood-gates and all other conveniences necessary for stopping out the tide or for draining the waters off the meadows in such manner and by such ways and means as they shall think fit and reasonable, any law of this province, usage or custom to the contrary in any wise notwithstanding; and they, the said managers, or any three of them, shall adjust and settle the expense thereof with those to whom such parts or shares of the banks so amended and repaired were before allotted as they shall think just and reasonable, except, as is before mentioned, in case of any extraordinary expense arising from its situation, nature of the soil or other circumstances, in all which cases the extraordinary charge, beyond what other allotments are subject to, shall be paid out of the common stock, and shall also deliver to the said owners, guardians or possessors of the said meadow land on whose allotments such repairs shall be made or to as many of them as shall be found, their respective bills of the charge of repairing the said part of the bank to them before allotted and shall order payment accordingly; and in case of their or any of their refusal or delay of payment they shall order the treasurer for the time being to advance and pay so much out of the public stock as shall be sufficient to satisfy the said charge until it can be obtained of those who ought to pay the same.

And in order to establish a fund to defray sundry contingent

and yearly expenses and to prevent any delay hereafter for want of money in case of inundations or extraordinary accidents:

[Section X.] Be it enacted by the authority aforesaid, That every owner or possessor of land in the aforesaid meadow tract shall, on or before the second Monday in June next, after publication hereof, pay or cause to be paid or deposited in the hands of the treasurer aforesaid the sum of two shillings current money of Pennsylvania for each and every acre they respectively have, hold, occupy or possess in the said district, exclusive of flats, creeks or waste lands, and all and every person or persons whether owners or renters who shall on the second Monday in June in every year hereafter be owner, occupier or possessor of meadow land in the said tract shall, in like manner, pay or deposit, or cause to be paid or deposited, into the hands of the treasurer for the time being, such sum or sums of money as the managers for the time being shall find necessary to assess and order, which sum, if paid by the aforesaid renter, he, the said renter, shall and is hereby empowered to deduct out of his rent.

So always and provided, That the sum of thirty pounds shall, in the beginning of every year, be in the treasurer's hands, ready to be applied in the premises as occasion may require, of all which sums of money and all other money coming to his hands by virtue of this act, and of all disbursements and payments thereof from time to time made, the said treasurer shall, in books to be provided for that purpose, keep a just and true account, and shall pay and deliver the same according to the directions and orders of the managers for the time being, or any three of them, and not otherwise.

[Section XI.] And be it further enacted by the authority aforesaid, That the managers for the time being shall, before the day herein appointed for the payment of the yearly quotas, deposits, money or assessment, cause a true list of the names of all and every of the said owners or possessors, with a true account of all and every acre of meadow in the aforesaid tract which they respectively have, hold, occupy and possess, exclusive of flats and creeks, according to the best information they can obtain, noting from time to time the several changes, alterations, transfers and alienations of right in the several parts and

parcels thereof as they shall come to their knowledge and shall furnish the treasurer with a true copy thereof, together with the sum per acre of the general assessment for the current year when any alteration shall be of the aforesaid deposit of two shillings, according to which list or account the treasurer for the time being shall receive and take the several sums of their and each of their deposit money and assessment respectively in every year raised or assessed by this act, and shall cause public notice of the said rate or assessment per acre to be given at least ten days before the day of payment in every year hereafter; and in case any of the said owners, occupiers or possessors aforesaid shall refuse or neglect to pay or cause to be paid to the treasurer aforesaid on the days and times aforesaid, the several sums of money which they respectively ought to pay or deposit, according to the true intent and meaning of this act, they and each of them so neglecting and refusing shall forfeit and pay to the said treasurer the additional sum of two pence for every shilling unpaid which they respectively ought to have paid by the direction of this act, and afterwards shall, for every three months' neglect or refusal, in like manner forfeit and pay to the treasurer for the time being the like sum of two pence for every shilling which he, she or they failed of paying on the day or time appointed when they respectively ought to pay by the direction of this act.

[Section XII.] And be it further enacted by the authority aforesaid, That if any of the said owners, possessors or occupiers shall neglect or refuse as aforesaid to pay the several sums of money, together with the forfeitures arising thereon, which they respectively ought to pay at any time or times hereafter for the space of twelve months, after any of the days or times in which it ought to be paid, or shall have neglected or refused to make, amend or repair his, her or their part or share of the bank so as aforesaid to them allotted, or shall have neglected or refused to reimburse the treasurer for the time being the necessary expense thereof, agreeable to the direction of this act, that then and so often it shall and may be lawful to and for the said treasurer, by direction of the said managers, or any three of them, in his own name to sue all and every such person

or persons so refusing or neglecting for the respective sum or sums of money which he, she or they ought to have paid by virtue hereof by action of debt, if five pounds or under, before any justice of the peace of the county or in any court of record where the same may be cognizable, and give this act and the said assessment or the said account, as the case may require, in evidence; and the said justice of the peace and the said court are hereby empowered and directed to give judgment and grant execution for the same, with costs of suit accordingly, to be levied on the tract or piece of marsh, meadow or cripple belonging as aforesaid to such owner or owners so neglecting or refusing, and delivered unto the managers for the time being, who, or any three of them, are hereby empowered and authorized to let out on rent any part of the said meadow belonging to any of the said owners who shall so neglect or refuse or who shall not be found in the county as aforesaid from year to year for so long time as until the rent or rents arising therefrom shall, as nearly as may be computed, pay all such sum or sums of money so assessed or so charged, together with all costs and forfeitures arising thereon for his or their neglect or refusal to pay the same as aforesaid, and no longer.

Provided always, That in letting out the said meadow the said managers do publicly notify the leasing thereof and let the same to the highest bidder at private sale or bargain.

[Section XIII.] And be it enacted by the authority aforesaid, That no process, suit or proceedings whatsoever which at any time hereafter shall be commenced, sued or brought before any of the justices of the peace or judges or justices of the common pleas or supreme court or before any magistrate of this province in the name of any treasurer of the said company of the Northern District of Kingsess Meadow, by direction of the said managers, or any three of them, shall be discontinued or put without day by reason of the death, disability or removal of such treasurer, but shall stand good and effectual in law to all intents and purposes notwithstanding such death, disability or removal.

[Section XIV.] And it is hereby enacted by the authority aforesaid, That the managers for the time being, or any three of them, shall have the power of disposing of all moneys paid to

the treasurer by virtue of this act, and of hiring and appointing, at the expense of the said company, any person or persons from time to time to inspect the condition of all the banks, dams, sluices or flood-gates belonging to the owners of the said meadow land, and to inform the respective owners or the said managers when any repairs are wanting, and may displace such person or persons and appoint others as often as they shall think fit, and the said managers shall have power to offer and pay such rewards as they think necessary out of the common stock for the destruction of such vermin as usually damage the said banks and dams, as well as for other general services of the said district.

[Section XV.] And be it further enacted by the authority aforesaid, That the said managers for the time being, or any three of them, are hereby authorized and empowered, in behalf of the said owners, to settle accounts with the treasurer from time to time, and shall do and execute all other matters and things pertaining to the general good and benefit of the said owners.

Provided nevertheless, That if any owner or owners shall think him, her or themselves aggrieved by any order, account or proceeding of the said managers, such owner or owners shall, if he or they think proper, choose two fit and disinterested persons, and the said managers, or three of them, shall choose two other fit and disinterested [persons], who (or any three of them) shall finally settle the same and all other matters and things in dispute that shall be referred to them by the said parties.

[Section XVI.] And be it further enacted by the authority aforesaid, That the orders of any three of the managers on the treasurer for the time being shall be complied with by the said treasurer and shall be good vouchers to indemnify him for the payment and delivery of the money and effects committed to his care by virtue of this act, and that all bonds, mortgages, deeds and conveyances in trust for the use of the said owners shall be taken in the name of the treasurer of the Northern District of Kingsess Meadow and be payable to him and his successors and shall be mentioned to be for the use of the owners thereof, and

with or without assignment, shall be good and available in law to his successor or successors in the said trust for the use of the owners as aforesaid and shall be recoverable in any court of record in this province where the same may be cognizable, as fully and effectually to all intents and purposes as if the same were private property and duly assigned in all the forms of law; and the receipts and discharges of such succeeding treasurer or treasurers for any such sum or sums [of] money paid to him or them shall be effectual in law.

And whereas the well draining, preserving and keeping open the drains of the said meadow land is of great importance to the said owners:

[Section XVII.] Be it enacted by the authority aforesaid, That all and every of the said owners shall be allowed, permitted and suffered to discharge all or any of the waters of their respective lands through their natural channels or by a direct course across the land of any other of the said owners as shall by the managers for the time being, or the major part of them, be judged convenient into the main channel, creek or sluice best suiting to discharge the same into the river, and shall be allowed to open, scour and cleanse the same when and as often as they, or the said managers, shall think convenient or necessary, any law, usage or custom to the contrary in any wise notwithstanding.

Provided always, That such owner so requiring a passage for his water shall first pay all the damages sustained, or that shall be sustained by such neighbor through whose land the water is to be discharged, and also all such damages as shall be done to the banks within his said neighbor's allotment in such manner and proportion as shall be settled by a majority of said managers.

[Section XVIII.] And be it enacted by the authority aforesaid, That if any person or persons shall wickedly and maliciously cut through and break down or endamage any of the said banks, dams, sluices or flood-gates, either their own or others, or shall let in any creek or water to annoy, injure or overflow any of their neighbor's lands, and shall thereof be convicted before the justices of the court of quarter sessions of the said county of Philadelphia, in all such cases the persons so offending shall be fined treble the value of all the damages, to be assessed by two or more indifferent persons to be appointed by the said court to value the same, which fine shall be added to the common stock for the general use and benefit of the said district.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Act of Assembly passed February 15, 1765, Chapter 523. Repealed by the Act of Assembly passed February 18, 1769, Chapter 585.

# CHAPTER CCCCLIX.

AN ACT FOR REGULATING WAGONERS, CARTERS, DRAYMEN AND PORTERS WITHIN THE CITY OF PHILADELPHIA AND FOR OTHER PURPOSES THEREIN MENTIONED.

Whereas many inconveniences and obstructions have arisen to the trade and commerce of the city of Philadelphia and great extortion and injustice been done the merchants and traders thereof and other persons within the same for want of a due and proper regulation of the wagoners, carters, draymen and porters within the said city and for want of a just limitation of the price and value of the portage, carriage and other labor and service of the said wagoners, carters, draymen and porters in their respective occupations within the said city:

[Section I.] Be it therefore enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute proprietaries of the province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That no person or persons whatsoever from and after the sixth day of April next ensuing the publication of this act shall follow the employ, business or occupation of a wagoner, carter, drayman or porter within the city of Philadelphia with-

out having first made application to the clerk of the court of quarter sessions of the peace for the said city of Philadelphia, and registered, or caused to be registered, his or their name and names, and caused or procured his or their carriage or carriages intended by him or them to be used in the said business to be numbered in a book by him, the said clerk, to be kept for that purpose, and without procuring and receiving from the said clerk a certificate of such registry, containing the number of his or their respective carriage or carriages, under the penalty of five shillings for every day he shall so follow the said business, which said certificate the said clerk is hereby enjoined and required to make out in writing under his hand and to deliver to the person who shall apply for the same, for which registry and certificate he shall receive the sum of two shillings and no more.

Provided always, That nothing hereinbefore contained shall extend to carriers and others residing in the country and bringing or carrying their effects to or from the city, or to any person or persons keeping or employing any such carriages for their own use only.

[Section II.] And be it further enacted by the authority aforesaid, That all and every wagoner, carter, drayman and porter following the business aforesaid within the said city shall number, or cause to be numbered, their several and respective carriages on the outside of each shaft with the same figures and numbers as shall be so as aforesaid entered in the said book and contained in his or their respective certificates and none other, in large figures, not less than two inches in length, to be made of good, strong, durable tin or copper, and that all and every such wagoner, carter, drayman or porter who shall follow the said business or employment with any carriage not numbered according to the directions aforesaid or when numbered shall wilfully deface the same or shall neglect to keep them plain and visible, shall, for each and every such offense, forfeit and pay the sum of five shillings for every day he shall use or employ such carriage not marked and registered as aforesaid.

[Section III.] And be it further enacted by the authority aforesaid, That if any wagoner, carter, drayman or porter found in the streets or on the wharves with his horse or horses and

carriages and not in actual service, shall refuse or neglect to work when called on at seasonable hours by any merchant or other person whatsoever he shall forfeit and pay the sum of five shillings for every such offense.

[Section IV.] And be it further enacted by the authority aforesaid, That the mayor and recorder, or either of them, and the aldermen of the city of Philadelphia, with the wardens of the said city, shall meet on the first Monday in March and November in every year or oftener, as occasion may require, at the courthouse in the said city, when and where the said mayor and recorder, or either of them, and the major part of the said aldermen met, with the assistance and consent of the said wardens, or any four of them, shall and may fix, regulate and ascertain the rates and prices which the said wagoners, carters, draymen and porters shall from time to time demand and receive for carrying and transporting commodities from one place to another within the said city, and shall also fix and appoint certain places in the city where it may be most convenient for the said wagoners, carters, draymen and porters to repair with their carriages when unemployed, an advertisement whereof shall be published in the public Gazette and in such other manner as they, the said mayor, recorder and aldermen, together with the wardens aforesaid shall think proper.

And that if any wagoner, carter, drayman or porter shall demand more for his service and labor than is fixed and ascertained in the rates settled as aforesaid, he shall forfeit and pay the sum of five shillings for every such offense.

[Section V.] And be it further enacted by the authority afore-said, That if any wagoner, carter, drayman or porter shall bring his wagon, cart or dray on the brick pavement before the door of any inhabitant without having obtained leave from the possessor of such house, he shall forfeit and pay for every such offense the sum of two shillings; and that no wagoner, carter, drayman or porter shall suffer his horse or horses to go faster than a slow pace or trot within the built parts of the city under the penalty of ten shillings for every such offense.

[Section VI.] And be it further enacted by the authority aforesaid. That no person or persons whatsoever shall permit

or suffer his or their horse or horses to go at large within the built parts of the said city under the penalty of one shilling for every horse so going at large, and that all and every tavern and innkeeper and others who shall have occasion to take horses not in any carriage through the city of Philadelphia, Germantown, Darby or any county town or borough within this province shall take them bridled or haltered and led through the same not faster than a slow pace or trot and in no other manner whatsoever under the penalty of one shilling for every horse taken or driven through the said city, towns or boroughs contrary to the directions of this act.

[Section VII.] And be it enacted by the authority aforesaid, That all and every the penalties and forfeitures incurred in and by virtue of this act shall be sued for and recovered before any justice of the peace of the city or county where the offense is committed, and shall be paid, one moiety thereof to the informer and the other moiety to the overseers of the poor of the city or township where the said offense shall be committed, to the use of the poor of the said city or township respectively, but if convicted upon view of a justice of the peace, the whole forfeiture shall be paid to the overseers of the poor of the city or township respectively for the use of the poor thereof; and if the offender shall neglect or refuse to pay the same upon conviction, every such forfeiture shall be levied by distress and sale of the offender's goods by warrant from under the hand and seal of the justice of the peace before whom such offender shall be convicted, returning the overplus, if any, to the owner, the charge of the distress being first deducted; and for want of such distress he shall be committed to the common gaol until the same, with costs of suit, shall be paid and satisfied; and in case any offender against this act shall be a negro or mulatto slave, he shall, instead of such imprisonment, be publicly whipped, at the discretion of the justice, not exceeding twenty-one lashes, unless the master or mistress of such slave shall pay the fine or forfeiture hereby inflicted.

[Section VIII.] And be it enacted by the authority aforesaid, That this act shall continue and be in force for and during the space of two years from and after the sixth day of April next ensuing and no longer.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Acts of Assembly passed March 4, 1763, Chapter 487; September 29, 1770, Chapter 615.

#### CHAPTER CCCCLX.

#### AN ACT TO REGULATE THE ASSIZE OF BREAD.

Whereas by an act of the general assembly of this province passed in the twelfth year of the reign of King William the Third, entitled "An act for the assize of bread," it is provided that the several sorts of bread therein mentioned shall be made according to a table calculated by troy weight, which, being found inconvenient and it being necessary to make some alterations in the weight of the several sorts of bread and some further provisions for the better regulation of bakers:

[Section I.] Therefore be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act every baker who makes any loaf bread for sale shall mark all the bread he shall bake with his name and with the following letters to distinguish the several sorts: That is to say, with W. for white, M. for middling, and B. for brown, all which said several sorts of bread shall be made in the manner following: That is to say the white bread shall be made of good, fine flour, the middling bread shall be made of good middlings and the brown bread shall be made of good ship-stuff, so called, all

of which shall be well baked; and when wheat is commonly sold for money at any of these several rates hereafter mentioned, the several sorts of bread shall be respectively according to the following table by avoirdupois weight:

Price of wheat per bushel.			Penny P. white.		Penny P. mid- dling.		Penny P. Brown.	
£	s.	đ.	oz.	qr.	OZ.	qr.	oz.	qr.
ŀ	2	6	13	1	16	0	21	0
Ì	3	0	12	1	15	1	19	3
	3	6	11	0	13	2	17	0
1	4	0	10	2	12	1	15	3
1	4	6	10	0	11	1	14	0
	5	0	9	1	10	1	13	0
1	5	6	8	2	9	2	12	1
ļ	6	0	8	0	9	0	11	3
	6	6	7	2	8	2	10	2
1	7	0	7	0	8	0	10	0
1	7	6	6	2	7	2	9	0
	8	0	6	0	7	0	8	0

And so proportionably under the penalty hereafter mentioned; and each baker shall be allowed six pence on the bushel above the assize: That is to say, when wheat is at five shillings per bushel they shall make their bread as if wheat was at five shillings and six pence. And every baker shall make the several sorts of bread, mentioned in this table and no other; and the loaves shall be a penny loaf or roll, a two-penny, a four-penny, an eight-penny and a twelve-penny loaf.

[Section II.] And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the respective clerks of the markets in each city, borough or town within this province and they are hereby authorized and required to enter into all houses, either with a constable or without, where they shall suspect or be informed of any bread baked for sale at least twice in every month, to examine and weigh all such bread and to seize all such as they shall find deficient in weight or fineness or not duly marked and baked as aforesaid:

And if any baker shall refuse to suffer the clerk of the market

to enter his house or to weigh and examine his bread, he shall be liable to the penalty of five pounds for every such refusal, to be recovered before any justice of the peace; of all which forfeitures the said clerk of the market shall have one-third part for his trouble and shall deliver the other two-thirds to the overseers of the poor, for the use of the poor in the city, borough or town where the same is seized.

[Section III.] And be it further enacted by the authority aforesaid, That if any baker thinks himself aggrieved by the 'seizure of his bread he may appeal to any magistrate, who shall hear and judge of the validity thereof, and if it shall appear to the said magistrate that the said bread was justly seizable, the baker thereof shall forfeit and pay the sum of ten shillings, onehalf thereof to be paid to the clerk of the market and the other half to the overseers of the poor [for the use of the poor] as aforesaid, with reasonable charges; but in case the said bread, upon trial, shall be found made of due weight and fineness and marked and baked as this act directs, it shall be returned to the baker and the charges shall be paid by the officer; and if any person purchasing bread shall find it deficient in any of the particulars before mentioned he or she may make complaint thereof to any justice of the peace who is hereby required to hear and examine the said complaint, and if he is satisfied of the deficiency of the said bread (provided it be complained of on the same day it was bought), he shall cause the baker thereof to pay double [the value] for every loaf so complained of and found deficient, which money shall be delivered to the overseers of the poor for the use of the poor.

[Section IV.] And be it enacted by the authority aforesaid, That it shall and may be lawful to and for the clerks of the market to weigh all butter brought unto or being in the town market to be sold by weight, which, if found deficient, shall be seizable, one-third part thereof for the use of the said clerk, and the other two-third to be by him delivered to the overseers of the poor for their use as aforesaid.

[Section V.] And be it enacted by the authority aforesaid, That the above-recited act passed in the twelfth year of the reign of King William the Third, entitled "An act for the assize of bread," be and the same is hereby repealed and made void.

[Section VI.] And be it further enacted by the authority aforesaid, That this act shall continue in force for the space of seven years and from thence until the end of the next sessions of Assembly and no longer.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Act of Assembly passed March 21, 1772, Chapter 641.

### CHAPTER CCCCLXI.

AN ACT TO ENABLE THOMAS YORKE, JAMES CHILD, DANIEL RUNDLE, PETER CHEVALIER AND ENOCH STORY, OR ANY THREE OF THEM, TO SELL THE PROVINCIAL SHIP OF WAR.

Whereas by an act of general assembly of this province passed in the forty-first year of his late Majesty's reign, entitled "An act for granting to His Majesty a duty of tonnage upon ships and vessels and also certain duties upon wine, rum, brandy and other spirits and a duty upon sugar for supporting and maintaining the provincial ship of war [for protecting the trade of this province] and other purposes for His Majesty's service," 2 it was, amongst other things, enacted that certain rates and duties should be levied and collected upon all ships, sloops and other vessels coming into or going out of this province and also upon wine, rum, brandy and other spirits and a duty upon sugar for supporting and maintaining the provincial ship of war until the thirty-first day of December, one thousand seven hundred and sixty. And whereas by one other act, passed in the thirtysecond year of the same reign, entitled "A supplement to the act, entitled 'An act for granting to His Majesty a duty of tonnage upon ships and vessels and also certain duties upon wine, rum,

<sup>1</sup> Passed November 27, 1700, Chapter 51.

<sup>2</sup> Passed April 29, 1758, Chapter 432.

brandy and other spirits and a duty upon sugar for supporting and maintaining the provincial ship of war for protecting the trade of this province and other purposes for His Majesty's service," it was further provided and enacted that the act herein first above mentioned and the aforesaid act should be and continue in force until the ratification of a treaty of peace between the Crowns of Great Britain and France or until the expiration of the act to which that was a supplement, as either might first happen and from such ratification of peace or termination of the aforesaid acts until the charges arising by virtue of the said acts should be discharged and no longer. And whereas it hath been represented to this house by Thomas Yorke, James Child, Daniel Rundle, Peter Chevalier and Enoch Story (commissioners in the aforesaid supplement nominated and appointed) that there was or would be a sufficient sum of money in their hands to defray all the charges heretofore accrued by virtue of the aforesaid acts [and a surplus would remain] provided they were duly authorized and empowered to make sale of the said ship of war now lying at a considerable expense and becoming daily of less value as well as useless to the public [and] as the duties and rates arising and payable by the said acts for maintaining and equipping the provincial ship of war are some time since expired and the said duties and rates no longer levied or collected:

[Section I.] Be it therefore enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That it shall and may be lawful for Thomas Yorke, James Child, Daniel Rundle, Peter Chevalier and Enoch Story, or the major part of them or of the survivors of them, to dispose of and sell the said provincial ship of war as soon as conveniently may be, anything in this act or any other act of general assembly of this province contained to the contrary notwith-

<sup>1</sup> Passed April 21, 1759, Chapter 440.

standing, and to invest the moneys arising by the sale thereof, together with such other moneys as are or may be in their hands, in defraying the debts and charges heretofore contracted and repaying the sums of money borrowed by virtue of the hereinbefore mentioned acts of assembly, or either of them, and the surplus, if any, shall be paid into the hands of the provincial treasurer, to be applied towards building a pier or piers within the river Delaware, provided the merchants, traders or others, or some of them, do, within eighteen months after the passing of this act, begin and proceed in erecting and building such pier or piers within the said river for the defense and security of ships and vessels from the dangers of ice, storms or other accidents attending or obstructing the navigation to and from the city of Philadelphia, or on failure thereof within the time limited as aforesaid, then to be applied towards sinking the sums of money heretofore granted to the King's use.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed April 21, 1759, Chapter 440; and the Act of Assembly passed February 17, 1762, Chapter 476.

### CHAPTER CCCCLXII.

AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF THE MEADOW AT THE WEST SIDE OF THE MOUTH OF DARBY CREEK, BY THE RIVER DELAWARE, IN THE TOWNSHIP OF RIDLEY, IN CHESTER COUNTY, TO KEEP THE BANKS, DAMS, SLUICES AND FLOOD-GATES IN REPAIR FOREVER AND TO RAISE A FUND TO DEFRAY THE EXPENSE THEREOF.

Whereas the embanking and draining of swamps and marshy lands and converting the same into meadow renders it valuable and advantageous to the owners thereof and tends to promote the trade and commerce of this province and as disputes and controversies frequently happen amongst the owners of drained meadow ground, occasioned by a default in some of them to support their just and equal proportions of the banks, dams,

sluices, flood-gates and drains that are necessary for draining the same, nor can they be compelled to contribute a proportionable [part] of the charge that may from time to time be incurred by such repairs without the aid of the Legislature:

[Section I.] Therefore be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That a certain tract of banked and improved meadow, commonly called Darby Creek Meadows, fronting the river Delaware, in the township of Ridley, in the county of Chester, bounded on the west by Crum creek, and on the east by Darby and Stone creeks, and on the north by the fast land, is hereby divided into two equal parts as followeth: That is to say, from the eastern line dividing the meadows of John Morton from the meadows of John Knowles and Israel Hendrickson and extending to Darby and Stone creeks, shall be henceforth called and named "The Eastern Moiety," and from the aforesaid line to Crum creek shall be called and named "The Western Moiety;" and for the better upholding the banks, dams, sluices and floodgates in the said Eastern Moiety:

[Section II.] It is hereby declared and enacted, That the dams, sluices and flood-gates in the said moiety now erected or hereafter to be erected shall be deemed to be one district and allotment, and shall hereafter be erected, supported and maintained at the costs and charges of all the owners, occupiers and possessors of meadow ground in the said Eastern Moiety in proportion to the quantity of meadow land they each respectively hold inclosed within the banks; and that the bank inclosing the said Eastern Moiety is hereby divided into three different districts and allotments in manner following: That is to say, from the fast land near the house of Swan Culin, fifty-six perches of the said bank, exclusive of one dam and a sluice bank to a post, shall belong to Daniel Culin, Swan, George and Samuel Culin, the heirs of George Culin, deceased, and thence of the said

bank twenty-seven perches to another post by a small sluice, shall belong to John Morton; thence of the said bank fourteen perches from the said sluice to a post by another sluice, shall be and belong to Morton Morton, Lawrence Garret and Thomas Smith, and thence on the said bank eighteen perches to another post shall belong to Daniel Culin, Swan, George and Samuel Culin, the heirs of George Culin, deceased, which, together with the bank to them before allotted shall be deemed and taken and shall be in full of their district and allotment of bank belonging to the meadows now held and occupied by them, thence on the said bank, exclusive of two sluices, and one dam, fifty perches to a post in the line of John Morton's meadow, shall belong to Morton Morton, Lawrence Garret and Thomas Smith, which, together with what is before to them allotted shall be deemed and taken and shall be in full of their district and allotment of bank belonging to the meadows now held and enjoyed by them; and thence crossing the meadow of John Morton of the said bank twenty-five perches, excluding one dam to the line of John Knowles and Israel Hendrickson's meadow shall belong to John Morton, and, together with what is before to him allotted, shall be deemed and taken and shall be in full of his district of bank belonging to the meadow ground now held and enjoyed by him in the said Eastern Moiety.

[Section III.] And be it enacted by the authority aforesaid, That William Parker, Esquire, Isaac Pearson and John Lewis are hereby nominated and appointed, authorized and empowered, within one month after the passing of this act, to form, divide, allot and assign all the banks, dams, sluices and floodgates in the aforesaid Western Moiety of the said meadows between the owners thereof into so many allotments, districts and divisions as they or a majority of them shall think just and reasonable, having an equitable regard to the particular situation, circumstances and conveniences of the several owners and possessors, which said allotments, districts or divisions so made and assigned to the respective owners by a deed or instrument in writing under the hands and seals of any two of them, and recorded in the office for recording of deeds for the county of Chester, shall be deemed, taken and held by the owners and pos-

sessors of the said moiety and every of them, and they are hereby dclared to be so many separate and distinct districts, and to remain to such person or persons as the same shall be allotted and assigned independent of each other forever as to supporting, amending or repairing the banks, dams, sluices, flood-gates and drains thereinafter to be made.

[Section IV.] And be it further enacted by the authority aforesaid, That the owners of the said tract of meadow shall be her reforth called and named "The Ridley Company," and that they, or as many of them as shall think fit, shall and may meet on the first Monday in April next and on the first Monday in May, yearly, hereafter, at the school-house in said township, or at such other place as shall be thought more convenient to said meadow, to be appointed by the said managers hereafter to be chosen, and by a majority of votes by way of ballot, choose each year out of the owners or possessors of said meadow three fit persons to be managers and one fit person to be treasurer for the whole company for the ensuing year, of which said meetings the managers hereafter chosen shall yearly give ten days' notice by advertisement.

[Section V.] And be it enacted by the authority aforesaid, That if any of the said owners or possessors elected or to be elected managers [as] aforesaid, on due notice being given him or them of his or their election, shall refuse or afterwards neglect to do the duty required of him or them by this act, he or they so refusing or neglecting his or their duty as a manager shall forfeit and pay to the treasurer for the time being, to be appointed as afore-mentioned, the sum of forty shillings, to be added to the common stock of the said Ridley Company, unless he shall have served two years successively in the said office next before his said appointment, which fine shall be recovered in manner hereinafter mentioned for the recovery of all other money payable to the treasurer of the said company, and the other managers shall proceed in their duty, or if they think proper, may choose other of said owners or possessors as manager or managers in the place of him or them refusing or neglecting as aforesaid.

[Section VI.] And be it further enacted by the authority

aforesaid, That every treasurer hereafter to be chosen for the said Ridley Company shall, before he takes upon him the execution of his office enter into an obligation with one sufficient surety in a penal sum double the value of the money that doth or may be like to come into his hands during the continuance of this act, as near as can be estimated, to the highest in vote of the managers, conditioned that he will, once in every year or oftener if required, render his accounts to the said managers and well and truly account, adjust and settle with them, when required, for and concerning all moneys that are or shall come to his hands by virtue of this act belonging to the said Ridley Company, and shall and will well and truly pay the balance that shall appear on such settlement to be in his hands or any parts thereof unto such person or persons from time to time and for such services as any two of said managers for the time being shall order and appoint and not otherwise, and that he will, at the expiration of his office, well and truly deliver up and pay the balance money then remaining in his hands, together with the books of accounts concerning the same and all other papers and writings in his keeping belonging to the said Ridley Company, unto his successor in the said office and that he will do and execute all other things as treasurer to the said company according to the true intent and meaning of this act.

[Section VII.] And be it enacted by the authority aforesaid, That the owners, occupiers or possessors of the aforesaid allotments or districts whose banks, dams, sluices or flood-gates are in any wise defective shall, within one month after the passing of this act, repair and amend all the breaches that now are in their respective allotments, and within four months from and after the publication hereof cause them to be put in good and substantial repair and make up or cause their respective allotments and districts of bank and dams in the said meadows to be made level on the top and sufficiently light, strong and secure to defend their respective meadows from all inundations, for which end the [said] banks and dams shall be kept at least six inches above the highest tides; and when each and every of the owner and owners within their respective allotments shall have made up and defended his, her or their banks or

those which have been deemed so in as secure and durable a manner as any of the other owners in the said allotment have done, all future charges of said banks, dams and sluices shall be equally borne and paid by the present and future owners, occupiers or possessors of the said meadows in proportion to the number of acres he, she or they do or may hold or own within the banks of their respective allotments; and the said owners or occupiers shall cause the said banks, dams, flood-gates and sluices to be constantly kept in the like good order, as also any sluice or other security that may be directed by the said managers.

And the said managers for the time being in every year are hereby empowered, authorized and required to inspect, at least four times in each year, the condition of every of said banks, dams, sluices, flood-gates and other conveniences necessary for stopping out the tides or draining the waters from said meadows, and if any shall appear unfinished, damaged, decayed or destroyed or shall be otherwise insufficient for the purposes aforesaid, they, the said managers, shall consider and determine by what methods such part or parts may be made good and secure; and the said managers shall give notice to one or more of the owners or possessors of the allotment in which such defect shall happen to be or to the guardians (if minors) and to be found in the county of Chester, whose duty it shall appear to the said managers to be, to require him or them forthwith to make or mend the banks, dams, sluices and other conveniences within their respective allotments in such manner as they, the said managers, shall think fit and necessary for the security aforesaid.

[Section VIII.] And be it enacted by the authority aforesaid, That if at any time hereafter any of the said owners or occupiers of any of the allotments aforesaid, or any guardian of a minor owner thereof, so warned by the said managers for the time being shall refuse or neglect, after such warning, to make, amend or repair their, or any of their, respective parts agreeable to the directions of the said managers, or if any of the said owners or guardians are not to be readily found within the said county at the time aforesaid, that then and thereafter, as

often as it shall so happen, it shall and may be lawful to and for the said managers, or any of them, together with such workmen, horses, carts, barrows and tools, as they, or a majority of them, shall think fit, to enter into and upon the said land of him, her, them or any of them where such defect shall happen, and then and there with the least damage, to dig and carry earth or mud and purchase suitable materials to make, amend and repair the said banks, dams, sluices, flood-gates and all other conveniences necessary for stopping out all tides or for draining the waters of the meadows in such manner and by such ways and means as they shall think fit and reasonable, any law of this province, usage or custom to the contrary in any wise notwithstanding. And they, the said managers, or any two of them, shall adjust and settle the expense thereof among the owners of the respective allotments in proportion and according to the number of acres each person, owner or possessor holds inclosed within the said banks, as they shall think just and reasonable; and shall also deliver to the said owners, guardians or possessors of the allotment on which the repairs shall be made or to as many of them as are to be found as aforesaid their respective bills of the charge or proportion of the charge of the said banks, dams, sluices and conveniences as aforesaid and shall order payment accordingly; and in case of their, or any of their, neglect, refusal or delay of payment, they shall order the treasurer for the time being to advance and pay so much of the company's money as shall be sufficient to satisfy the said charge until it can be obtained from those who ought to pay the same.

Provided always, That nothing herein contained shall be deemed or construed to dissolve any contract made, or to be made, between any of the said owners or possessors relating to the premises or any part thereof, so that such contracts shall not retard or interfere with the general improvement and security hereby intended.

And provided, That if any owner, occupier or possessor of meadow in the aforesaid tract shall make any necessary repair of the bank, dam, sluice, trunk or conveniency within his respective allotment, such part of the said expense as shall be certified under the hands of the managers, or a majority of them, to be just and reasonable for the other owners, occupiers or possessors to pay, shall, on their refusal or neglect of payment, be recovered by the treasurer in manner hereinafter directed for recovery of any repairs made by the managers, and shall be repaid to the person or persons who shall have so made the same.

And in order to establish a fund to defray sundry contingent and yearly expenses and to prevent delay hereafter for want of money in case of inundations or extraordinary accidents:

[Section IX.] Be it enacted by the authority aforesaid, That every owner or possessor of land in the aforesaid meadow tract shall, on or before the first Monday in June after the publication of this act, pay or cause to be paid or deposited in the hands of the treasurer aforesaid the sum of one shilling, current money of Pennsylvania, for each and every acre they respectively have, hold, occupy or possess within the banks in the aforesaid tract, and all and every person who shall, on the first Monday in June in every year hereafter, be owner, occupier or possessor of meadow land in said tract shall, in like manner, pay or deposit, or cause to be paid or deposited, in [to] the hands of the treasurer, on the first Monday in June in every year, the sum of six pence of like money aforesaid for each and every acre of meadow which they respectively shall so have, hold, occupy or possess in each and every year until the sum of ten pounds shall remain in the hands of the treasurer after payment of all charges then accrued and no longer; and that afterwards they and such as shall [hereafter] be owners or possessors shall yearly pay and deposit such sum or sums of money on the first Monday in June in each year as the managers [for the time] being shall find necessary to assess in manner aforesaid; so always provided, that there does not remain above ten pounds in the hands of the treasurer in the beginning of each year, ready to be applied as aforesaid; of all which sums of money and of all other moneys coming to his hands by virtue of this act and of all disbursements and payments thereof from time to time made the treasurer shall, in books for that purpose provided, keep a just and true, distinct and separate account for each district, and shall pay and deliver the same according to the directions and orders of the managers, or a majority of them, for the time being, and not otherwise.

[Section X.] And it is hereby [further] enacted by the authority aforesaid, That the managers for the time being shall, before the days herein appointed for payment of the yearly quotas, deposit money or assessment, cause true lists of the names of all and every of the said owners or possessors of the respective districts aforesaid to be made out, with a true account of all and every acre of land in each district respectively which they have, hold or possess, according to the best information they can obtain, noting from time to time the several changes, alterations, transfers and alienations of right in the several parts and parcels thereof as they shall come to their knowledge and shall furnish the treasurer with true copies thereof, together with the sum per acre of the general assessment, which lists or accounts the said treasurer for the time being shall receive, and take the several sums of their and each of their deposit money respectively in every year; and in case any of the said owners or possessors aforesaid shall refuse or neglect to pay, or cause to be paid, to the treasurer aforesaid, on the days and times aforesaid the several sums of money, or any part thereof which they respectively ought to pay or deposit according to the true intent and meaning of this act, they and each of them so neglecting or refusing shall forfeit and pay to the treasurer the additional sum of two pence for every shilling not paid within six days after said time of payment aforesaid in which they respectively ought to have paid the same by the directions of this act; and in case of neglect or refusal afterwards shall, for every three months' neglect or refusal, in like manner forfeit and pay to the treasurer for the time being the like sum of two pence for every shilling which he, she or they have so failed of paying on the day or time when they respectively ought to have paid the same by the direction of this act.

[Section XI.] And it is hereby further enacted by the authority aforesaid, That if any of the said owners or possessors shall neglect or refuse as aforesaid to pay the several sums of

money, together with the forfeiture arising thereon, which they respectively ought to pay at any time or times hereafter for the space of six months after any of the days or times in which the same ought to have been paid, agreeable to the direction and true intent and meaning of this act, or shall have neglected or refused to make, amend or repair his, her or their bank, dam, sluice, flood-gate or drain or any of them, or any part which [they] the said owners or possessors ought to have done agreeable to the directions of this act, or shall have refused or neglected to reimburse the treasurer for the time being the necessary expense thereof, agreeable to the directions of this act, that then and thereafter it shall and may be lawful to and for the said treasurer, by directions from the said managers, or a majority of them, in his own name to sue all and every such person and person so refusing and neglecting for the respective sum or sums which he, she or they ought to have paid by virtue hereof by action of debt, if five pounds or under, before any one justice of the peace of the county aforesaid, and if above five pounds in any of His Majesty's courts of common pleas within this province and give this act and the said assessment or account as the case may require in evidence, and the said justice of the peace and the said court are hereby empowered and directed to give judgment and execution for the same, with costs of suit accordingly, to be levied on the tract or piece of meadow belonging to such owner or owners so neglecting or refusing, and deliver the same unto the managers as aforesaid for the time being, who are hereby empowered and authorized to let out on rent any part of the said meadow ground belonging as aforesaid to any of such owner or owners so neglecting or refusing or not to be found in the county from year to year or for so long time as until the rent or rents arising therefrom shall, as nearly as may be computed, pay all such sum or sums of money so assessed or so charged, together with all the forfeitures arising thereon, for neglect or refusal to pay the same as aforesaid, and no longer.

Provided always, That in letting out said meadow the said managers do publicly notify the leasing thereof and let the same to the highest bidder.

[Section XII.] And be it further enacted by the authority aforesaid, That the said managers for the time being, or a majority of them, shall have power of disposing of all moneys paid to the treasurer by virtue of this act for the uses aforesaid, and of appointing a person or persons from time to time to enter upon and inspect the condition of all banks, dams, sluices and flood-gates belonging to the said meadows and informing the said owners or managers when any repairs are wanting, and may displace such person and appoint others as often as they shall think fit; and the said managers shall have power to dispose of the money in the treasurer's hands as aforesaid for the destruction of such vermin as usually damage the banks and for any other general service of the said meadows.

[Section XIII.] And be it further enacted by the authority aforesaid, That the said managers are hereby empowered, in behalf of the said owners and they shall settle accounts with the treasurer from time to time and shall do and execute all other matters and things pertaining to the general good and benefit of the said owners.

Provided nevertheless, That if any owner or owners shall think him, her or themselves aggrieved by any order or proceedings or account of the said managers, such owner or owners shall choose two fit and disinterested persons, and the said managers, or a majority of them, shall choose two other fit and disinterested persons, who (or any three of them so chosen) shall finally settle the same and all other matters and things in dispute concerning said meadows.

[Section XIV.] And be it enacted by the authority aforesaid, That the order of any two of the managers on the treasurer for the time being shall be complied with by the said treasurer, and shall be good vouchers to indemnify him for the payment and delivery of the money and effects committed to his care by virtue of this act, and the receipts and discharges of such succeeding treasurer or treasurers for any sum or sums of money paid to him shall be good and effectual in law.

[Section XV.] And be it enacted by the authority aforesaid, That no process, suits or proceedings whatsoever which at any time shall be commenced, sued or brought before any justices of the peace, judges of the common pleas or supreme court in the name of the said treasurer shall be discontinued or put without a day by reason of the death, disability or removal of such treasurer, but shall stand good and effectual in law to all intents and purposes notwithstanding such death, disability or removal.

[Section XVI.] And be it enacted by the authority aforesaid, That if any person or persons shall wickedly and maliciously cut through or break down or damage any of the said banks, dams, sluices or flood-gates, either their own or others, or shall let in any creek or water to annoy, injure or overflow any of the neighboring lands, and shall be thereof convicted before the justices of the court of quarter-sessions of the said county of Chester, in all such cases the person or persons so offending shall be fined treble the value of the damages, to be assessed by two or more indifferent persons, to be appointed by the said court to value the same, which fine shall be added to the common stock for the general use and benefit of all the owners of the said meadows.

And for the better and more effectual draining of the aforesaid tract of meadow land:

[Section XVII.] Be it enacted by the authority aforesaid, That a drain at least six feet wide at the top and level at the bottom with the bottom of the sluices to which it leads shall, in three months after the publication hereof by each and every of the owners, occupiers or possessors respectively be dug and scoured across each of their pieces or tracts of meadow ground and by each of them always hereafter kept open and in good order from Stone Creek Sluice to Crum Creek Sluice where the same now is in part opened, and if any of the said owners, occupiers or possessors shall neglect or refuse on notice given them, or any of them, by the aforesaid managers for the time being to make, amend, scour or repair their or any of their parts respectively, it shall and may be lawful for the said managers or a majority of them to order any workmen to open, scour or amend the said drain, and they shall adjust and settle the price thereof and charge the owner or owners so refusing or neglecting with their respective parts of the same, and to order the treasurer for the time being to make demand thereof; [and] if within six days after such demand they, or any of them so charged as aforesaid shall not pay the sum to them charged for said repairs so done, it shall and may be lawful for the treasurer for the time being to recover the same in the manner that other fines, forfeitures or charges of repairs are recoverable by this act, any law, custom or usage to the contrary in any wise notwith-standing.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Acts of Assembly passed February 15, 1762, Chapter 523; March 4, 1797, Chapter 1922; February 26, 1800, Chapter 2108; March 2, 1854, P. L. 139.

# CHAPTER CCCCLXIII.

AN ACT FOR THE PRESERVATION OF FISH IN THE RIVERS DELAWARE, SUSQUAHANNA AND THE LEHIGH, COMMONLY CALLED THE WEST-ERN BRANCH OF DELAWARE.

Whereas it is found by experience that large quantities of the fry and brood of fish, as well as young fish unfit for use, have been for many years past killed and destroyed by weirs, racks, baskets, dams, pounds and other like engines and devices formed and erected in the rivers Delaware, Susquahanna and the Lehigh, commonly called the Western Branch of Delaware, for taking of larger fish, whereby the great quantities of fish which were formerly to be found and taken in the said rivers are much diminished, to the great damage and injury of the public; for remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the Representatives of the freemen of the said Province in General Assembly met, and by the authority of the

same. That if any person or persons whatsoever from and after the publication of this act, shall erect, build, set up, repair or maintain, or shall be aiding, assisting or abetting in erecting, building, setting up, repairing or maintaining any wier, rack, baskets, fishing-dams, pound or other device whatsoever for the taking of fish within the said rivers or any or either of them, or that shall fix or fasten any net or nets across or in any of the said rivers, or any part thereof, by which the fish may be obstructed from going up the said rivers, or that shall take, destroy or spoil any spawn, fry or brood of fish, or any kind of fish whatsoever in any such weir, rack, baskets, fishing-dams, pound or other device aforesaid, every such person or persons so offending contrary to the true intent and meaning of this act, being legally convicted thereof by the oath or affirmation of one or more credible witnesses, or by his own confession, shall forfeit and pay the sum of twenty pounds, lawful money of this government for every such offense or suffer six months' imprisonment without bail or mainprise, one moiety of which forfeiture shall be paid to the informer or prosecutor and the other moiety to the overseers of the poor of the township, city or borough where such offender shall reside for the use of the poor of the said township, city or borough if resident within this province; if otherwise, where he shall be apprehended.

[Section II.] And be it enacted by the authority aforesaid, That all and every of the offenses which shall be hereafter committed against the true intent and meaning of this act within either of the said rivers Delaware or Susquahanna shall be laid to be committed within the said rivers respectively in the county which shall lie next to or adjoin that part of the said rivers respectively where the offense is committed, and the justices of the county court of quarter sessions of the said county which shall so adjoin the part of the said river where the offense is committed are hereby authorized, empowered and required to hear, try and determine the same by a jury of the county in the same manner as other criminal offenses committed within their respective counties are usually heard, tried and determined before them.

And whereas part of the said river Susquahanna divides the

counties of Lancaster, York and Cumberland, and some doubts may arise in which of the said counties the offenses committed within the said river against this act ought to be tried; for removing whereof:

[Section III.] Be it enacted by the authority aforesaid, That all and every such offense and offenses which shall be committed within the said river Sasquehanna shall be laid to be committed in any or either of the said counties joining on that part of the said river where such offense shall be committed, and heard, tried and determined in the court of quarter sessions of the same county in manner aforesaid.

And for the more speedy removal of such weirs, racks, baskets, fishing-dams, pounds and other devices aforesaid as are already or hereafter shall be made in any of the said rivers:

[Section IV.] Be it enacted by the authority aforesaid, That the justices of the county court of quarter sessions of the several counties within this province, bounded on and adjoining to any of the said rivers or in which the same are included, at their next court of quarter sessions after the publication of this act and as often after as there shall be occasion, and that any justice or justices of the peace out of term time shall and they are hereby enjoined and required to issue forth their warrants to the overseers of the highways of each and every township next adjacent to the weir, rack, fishing-dam, pound or other device aforesaid so erected, or in which they, or any of them, shall be erected, enjoining and requiring them, the said overseers, respectively forthwith to remove or cause to be removed every such weir, rack, basket, fishing-dam, pound or other device aforesaid, and for that purpose to summon the inhabitants of their respective townships, giving them three days' notice, to repair to, throw down, remove and destroy such weir, rack, basket, fishing-dam, pound or other device aforesaid so erected, built or set up in manner aforesaid, and to make return of such their proceedings to the said justices at their next court of quarter sessions by whom such warrants shall be respectively issued; and if any such overseer or overseers of the highways to whom such warrant shall be directed shall refuse or neglect to discharge and perform the duty thereby enjoined and required of him or them, he or they so offending and being thereof legally convicted by a jury of the county or by his or their own confession before the said justices in their said court of quarter sessions shall, for every such offense, forfeit and pay to the overseers of the poor of the township where such offender or offenders shall reside the sum of ten pounds for the use of the poor of the said township; and if any inhabitant so summoned shall refuse or neglect to attend in person, or to send another able person in his room to assist in throwing down, removing and destroying such weir, rack, fishing-dam, basket, pound or other device aforesaid so erected, built or set up in such manner as the said overseer or overseers shall order and direct, he shall forfeit and pay the sum of ten shillings for every such offense to the overseers of the poor of the township whose inhabitants are so summoned for the use of the poor, to [be] recovered and levied as debts under forty shillings are by law directed to be recovered and levied.

And to prevent any delay that may happen through default of any of the said justices, the said overseers of the highways or of any other person or persons whatsoever:

[Section V.] Be it enacted by the authority aforesaid, That it shall and may be lawful to and for any person or persons whatsoever to break, throw down, remove and destroy all or any weir or weirs, fishing-dams, racks, baskets, pounds or other devices whatsoever, built, set up or laid [or to be built, set up or laid] within any of the aforesaid rivers for catching of fish as aforesaid, and that every person or persons who shall assault, hinder or obstruct any person in pulling down, breaking, removing or destroying any of the aforesaid devices in any of the rivers aforesaid, and being thereof legally convicted before any one of the said justices of the said courts, shall forfeit and pay for every such offense five pounds, lawful money, as aforesaid, one moiety thereof to the use of the poor as aforesaid and the other moiety to the person or persons assaulted or obstructed in removing or destroying any of the said devices, to be recovered by a warrant from any of the said justices as debts of five pounds or under are recoverable by the laws of this province.

And for the more effectual detecting and punishing offenders against this act:

[Section VI.] Be it enacted by the authority aforesaid, That the constable of each respective township which shall be bounded by or adjoin to any part of any or either of the said rivers shall and he is hereby enjoined and required, under the penalty of five pounds, to be recovered and applied in manner last aforesaid, carefully and diligently to inspect and view once, at least, in every fourteen days from the first day of August to the first day of December in every year, such parts of the said rivers as shall be adjoining his respective township; and, having any knowledge of any offenses against this act, he shall forthwith give information thereof to some justice of the peace, who shall immediately issue his warrant to the overseers of the highways aforesaid for the purposes aforesaid; and the said constable shall also present on oath or affirmation every such offense to the justices of the court of quarter sessions of their respective counties, together with the name and names of such offender or offenders, that he or they may be tried according to the directions of this act, which oath or affirmation the said justices are hereby required duly and carefully to administer.

[Section VII.] Provided always, nevertheless, and be it further declared and enacted, That so much of this act as relates to the weirs, racks, baskets, fishing-dams, pounds and other devices aforesaid already erected or hereafter to be erected in the river Delaware shall be and shall be deemed, held, construed and taken to be of no force, validity or virtue until a bill for remedying the same mischiefs and inconveniences hereby intended to be remedied in the said river shall be passed and enacted into a law by the legislature of the province of New Jersey and be in full force and virtue, and that so much of this act as relates to the weirs, racks, baskets, fishing-dams, pounds and other devices aforesaid already erected or hereafter to be erected in the river Susquehanna shall be and shall be deemed, held, construed and taken to be of no force, validity or virtue until a bill for remedying the same mischiefs and inconveniences thereby intended to be remedied in the said river shall be passed

and enacted into a law by the legislature of the province of Maryland and be in full force and virtue, anything herein contained to the contrary thereof in any wise notwithstanding.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and (the two acts of Assembly) passed March 9, 1771, Chapters 627, 638; March 14, 1777, Chapter 747; March 30, 1784, Chapter 1092; March 31, 1785, Chapter 1155; April 7, 1786, Chapter 1222; March 19, 1794, Chapter 1722; March 17, 1796, Chapter 1882; April 8, 1799, Chapter 2063; February 8, 1804, P. L. 75; March 16, 1807, P. L. 74; February 23, 1809, P. L. 14; March 19, 1810, P. L. 117; (the two acts of) March 1, 1815, P. L. 57, 59; March 24, 1817, P. L. 179; March 23, 1819, P. L. 161; March 27, 1819, P. L. 188; January 29, 1823, P. L. 16; February 9, 1824, P. L. 242; April 11, 1825, P. L. 235; April 16, 1827, P. L. 446; April 23, 1829, P. L. 285; March 30, 1832, P. L. 233; March 4, 1835, P. L. 51; April 3, 1837, P. L. 198; April 5, 1842, P. L. 230; February 26, 1844, P. L. 55; March 2, 1844, P. L. 66; April 4, 1844, P. L. 186; March 28, 1845, P. L. 238; March 19, 1846, P. L. 143; April 15, 1852, P. L. 353; April 2, 1858, P. L. 200; April 16, 1858, P. L. 305; March 36, 1866, P. L. 370; April 9, 1868, P. L. 77; March 27, 1869, P. L. 557; April 8, 1869, P. L. 19; May 24, 1871, P. L. 275; April 28, 1873, P. L. 82, 886; June 3, 1878, P. L. 160; (the two acts of) June 11, 1879, P. L. 154, 163; June 10, 1881, P. L. 92; June 27, 1883, P. L. 163; May 23, 1887, P. L. 165; (the three acts of) May 22, 1889, P. L. 261, 264, 267; April 15, 1891, P. L. 19; May 12, 1891, P. L. 52; June 24, 1895, P. L. 241; (the four acts of) June 25, 1895, P. L. 286, 295, 299, 305.

# CHAPTER CCCCLXIV.

AN ACT FOR RAISING, PAYING AND CLOTHING THREE HUNDRED MEN PROPERLY OFFICERED, FOR RELIEVING THE SEVERAL FORTS AND POSTS WITHIN THE COMMUNICATION TO PITTSBURG AND FOR CONTINUING AN ACT FOR REGULATING THE OFFICERS AND SOLDIERS IN THE PAY OF THIS PROVINCE.

Whereas in pursuance of an act of general assembly of this province passed in the thirty-third year of His late Majesty's reign, entitled "An act for granting to His Majesty the sum of one hundred thousand pounds and for striking the same in bills of credit in the manner hereinafter directed and for providing a fund for sinking the said bills of credit by a tax on all

estates, real and personal, and taxables within this province," the sum of one hundred thousand pounds was granted to His Majesty's use for and towards raising, paying and clothing two thousand seven hundred men, officers included, to act in conjunction with His Majesty's forces until the twenty-fifth day of November, one thousand seven hundred and sixty, and for other purposes for His Majesty's service. And whereas the officers and men so as aforesaid raised were discharged and paid off on or about the time in the act limited and appointed and there yet remains a balance of the said one hundred thousand pounds in the trustees' hands not appropriated to any particular uses.

And whereas at the requisition of General Amherst it has been represented to this assembly by our governor that His Majesty's service renders it absolutely necessary that the general do remove Colonel Vaughan's regiment from the forts and posts within the communication to Pittsburg, and that from the present situation of His Majesty's troops the general has no others to relieve them with.

Therefore, as a further demonstration of our loyalty to His Majesty and our ready and cheerful compliance with all measures which may be for His Majesty's service so far as lies in our power:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the Representatives of the freemen of said Province in General Assembly met, and by the authority of the same, That three hundred effective men, properly officered, shall be raised, clothed and paid at the expense of this province out of the remaining part of the money heretofore granted to the King's use by the act herein first above mentioned, to act in conjunction with His Majesty's forces in relieving the several forts and posts within the communication to Pittsburg until the twenty-fifth day of November, one thousand seven hundred and sixty-one, or until a peace between the Crowns of Great Britain

<sup>1</sup> Passed April 12, 1760, Chapter 453.

and France shall be ratified and concluded, as either of them shall first happen, and the moneys so to be paid for the purposes aforesaid shall be drawn for by the commissioners, with the consent of the governor, by orders on the trustees in the same manner as in the act hereinbefore mentioned is directed and provided; and the orders so drawn on the trustees of the general loan office and by them paid shall be produced to the committee of assembly for the time being, and by the said committee shall be allowed in discharge of so much of the money remaining in the trustees' hands by virtue of the act for granting to His Majesty the sum of one hundred thousand pounds, [&c.,] herein first above mentioned, in as full and ample manner as if this act and every article, clause and thing herein contained had been inserted in the body of the said act, anything in this act or the above-mentioned act to the contrary notwithstanding.

[Section II.] And be it further enacted by the authority aforesaid, That the act, entitled "An act for regulating the officers and soldiers in the pay of this province," passed in the thirty-third year of His late Majesty's reign, and every article, clause and thing therein contained, shall be and continue in full force and virtue till the twenty-fifth day of March, one thousand seven hundred and sixty-two, and no longer.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Sections II and V, and the note to the Act of Assembly passed April 21, 1760, Chapter 457; and the Act of Assembly passed July 8, 1763, Chapter 501.

#### CHAPTER CCCCLXV.

AN ACT FOR MAKING THE RIVER SCHUYLKIL NAVIGABLE AND FOR THE PRESERVATION OF THE FISH IN THE SAID RIVER.

Whereas the river Schuylkil is navigable for rafts, boats and other small craft in times of high freshets only, occasioned by

<sup>1</sup> Passed April 21, 1760, Chapter 457.

the obstruction of rocks and bars of sand and gravel in divers parts of the same; and whereas the improving the navigation of the said river so as to make it passable at all times will be very advantageous to the poor, greatly conducive to the promotion of industry and beneficial to the inhabitants residing on or near said river, by enabling them to bring the produce of the country to the market of the city of Philadelphia and thereby increase the trade and commerce of the province. And whereas divers of the inhabitants of this province, desirous to promote the welfare of the public, have subscribed large sums of money for the purposes aforesaid and by petition to the assembly have requested that commissioners may be appointed by law to take, receive and collect the said subscriptions and such others as shall hereafter be given or subscribed, and to apply and appropriate the same for and towards the clearing, scouring and rendering the said river navigable as aforesaid:

[Section I.] Be it therefore enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That Joseph Fox, John Hughes, Samuel Rhoads, John Potts, William Palmer, David Davis, Mordecai Moore, Henry Pawling, James Coultas, Jonathan Coates, Joseph Millard. William Bird, Francis Parvin, Benjamin Lightfoot and Isaac Levan, or a majority of them, shall be and are hereby constituted and appointed commissioners for clearing, scouring and making the said river Schuylkil navigable, who, or a majority of them. as aforesaid shall have full power and authority by virtue hereof to take, collect, recover and receive of and from any person or persons whatsoever any sum or sums of money which are or shall hereafter be given, granted or subscribed for and towards making the said river Schuylkill navigable, and the miners so collected, recovered and received by them to lay out, appropriate and employ for and towards making the said river unalpublic and passable for boats, flats, rafts, canoes and other

small vessels from the ridge of mountains [commonly called the Blue Mountains] to the river Delaware.

[Section II.] And be it further enacted by the authority aforesaid, That the said commissioners, or the major part of them, shall have full power and authority by themselves, their agents, servants, hirelings and workmen to clear, scour, open, enlarge, straighten or deepen the said river in any part, place or places thereof, which shall appear to them most convenient for opening, making anew or improving the channel and also to cut, blow up, remove or take away all trees, rocks, beds of gravel, sand or mud, weirs, fishing-dams, baskets, pounds, stone or any other impediment or obstruction whatsoever which may or can in any manner hinder, impede or obstruct the navigation of the said river, and to form, make, erect and set up in the said river any dams, pens for water-locks or any other works whatsoever which they shall think most fit and convenient to answer the purposes aforesaid, and to alter, repair or amend the same, as often as it shall be necessary or convenient and also to appoint, set out and make towing-paths or ways for towing, hauling or drawing of boats, vessels or other small craft and rafts of any kind whatsoever in, upon or through the said river, which said paths shall be free and open to all persons whatsoever having occasion to use the same; and from time to time and at all times hereafter to do, execute and perform all and every other matter and thing in the said river necessary or convenient for making, maintaining, supporting and continuing the navigation thereof.

[Section III.] And be it enacted by the authority aforesaid, That if any person or persons whatsoever from and after the publication of this act, shall erect, build, set up, repair or maintain, or shall be aiding, assisting or abetting in erecting, building, setting up, repairing or maintaining any wier, rack, basket, fishing dam, pound or other device or obstruction whatsoever within the said river, or that shall fix or fasten any net or nets across the same or any part thereof, whereby the fish may be obstructed from going up the said river; or that shall take, destroy or spoil any spawn, fry or brood of fish, or any kind of fish whatsoever in any such weir, rack, dam, basket, pound

or other device aforesaid, every such person so offending, being thereof legally convicted by the oath or affirmation of one or more credible witnesses or by his own confession, shall forfeit and pay the sum of twenty pounds, lawful money of this government, for every such offense, or suffer six months' imprisonment without bail or mainprise, one moiety of which forfeiture shall be paid to the informer or prosecutor and the other moiety to the overseers of the poor of the township where such offender shall reside, for the use of the poor of the said township.

And for the more speedy removal of such weirs, racks, baskets, fishing-dams, pounds and other devices and obstructions aforesaid as are already or hereafter shall be made in any part of the said river:

[Section IV.] Be it enacted by the authority aforesaid, That the justices of the county court of quarter sessions of the several counties within this province bounded on and adjoining to any part of the said river at their next court of quarter sessions after the publication of this act, and as often after as there shall be occasion, and that any of the said justices of the peace out of sessions shall and they are hereby enjoined and required to issue forth their warrants to the overseers of the highways of each and every township next adjacent to the weir, rack, fishing-dam, basket, pound or other device or obstruction aforesaid so erected, enjoining and requiring them, the said overseers respectively, forthwith to remove or cause to be removed every such weir, rack, basket, fishing-dam, pound or other device or obstruction aforesaid; and for that purpose to summon the inhabitants of their respective townships, giving them three days' notice, to repair to, throw down, remove and destroy such weir, rack, basket, fishing-dam, pound or other device or obstruction aforesaid so erected, built or set up; and to make return of such their proceedings to the said justices at their next court of quarter sessions by whom such warrants shall be respectively issued; and if any such overseer or overseers of the highways to whom such warrant shall be directed shall refuse or neglect to discharge [and perform] the duty thereby enjoined and required of him or them, he or they so offending and being thereof legally convicted by a jury of the county or by his or their own confession before the said justices in their said court of quarter sessions shall for every such offense forfeit and pay to the overseers of the poor of the township where such offender or offenders shall reside the sum of ten pounds for the use of the poor of the said township; and if any inhabitant so summoned shall refuse or neglect to attend in person or to send another [able] person in his room to assist in throwing down, removing and destroying such weir, rack, fishing-dam, basket, pound or other device or obstruction aforesaid so erected, built or set up in such manner as the said overseer or overseers shall order and direct, he shall forfeit and pay the sum of ten shillings for every such offense to the overseers of the poor of the township whose inhabitants are so summoned for the use of the said poor, to be recovered and levied as debts under forty shillings are by law directed to be recovered and levied.

And to prevent any delay that may happen through the default of any of the said justices, overseers of the highways or persons so summoned:

[Section V.] Be it enacted by the authority aforesaid, That it shall and may be lawful to and for any person or persons [whatsoever to] break, throw down, remove and destroy all or any such weir or weirs, fishing-dams, racks, baskets, pounds or other device or obstruction whatsoever, built, erected, set up, or to be built, erected or set up, within the aforesaid river, and that every person or persons who shall assault, hinder or obstruct any person in pulling down, breaking, removing or destroying any of the aforesaid devices or obstructions in any part of the river aforesaid and being thereof legally convicted before any one of the said justices of the said courts shall forfeit and pay for every such offense five pounds lawful money as aforesaid, one moiety thereof to the use of the poor as aforesaid and the other moiety to the person or persons assaulted or obstructed in removing or destroying any of the aforesaid devices or obstructions, to be recovered by a warrant from any of the said justice as debts of five pounds or under are recoverable by the laws of this province.

And for the more effectual detecting and punishing offenders against this act:

[Section VI.] Be it enacted by the authority aforesaid. That the constable of each respective township which shall be bounded by or adjoined to any part of the said river shall and he is hereby enjoined and required, under the penalty of five pounds to be recovered and applied in manner last aforesaid, carefully and diligently to inspect and view once at least in every fourteen days from the first day of August to the first day of December in every year such parts of the said river as shall be adjoining to his respective township, and having any knowledge of any offenses against this act, he shall forthwith give information thereof to some justice of the peace, who shall immediately issue his warrant to the overseers of the highways aforesaid for the purposes aforesaid; and the said constable shall also present, on oath or affirmation, every such offense to the justices of the court of quarter sessions of their respective counties, together with the name and names of such offender or offenders, that he or they may be tried according to the directions of this act, which oath or affirmation the said justices are hereby required duly and carefully to administer.

And whereas part of the said river Schuylkill divides the counties of Philadelphia and Chester, some doubts have arisen in which of the said counties the offenses committed within the said river shall be tried; for removing of which doubts:

[Section VII.] Be it enacted by the authority aforesaid, That it shall and may be lawful for the person or persons informing, prosecuting or complaining of any of the aforesaid offenses committed within the said river to lay the same to be committed within the said river in the county of Philadelphia or Chester, and the same shall be heard, tried and determined in either of the said counties joining on that part of the river where the offense is committed at his election.

Provided always, nevertheless, That nothing herein contained shall be held, deemed, taken or construed to prevent, prohibit or obstruct the said commissioners from making, erecting or setting up any dams, pens for water-locks or other works or devices in the said river which they shall think necessary to aid, assist or improve the navigation of the same; or by any means whatsoever to lessen, diminish or destroy the powers and

authorities hereinbefore given and invested in them, or to compel or oblige, authorize or empower, any justice or justices, either in or out of their sessions as aforesaid, or any overseer or overseers of the highways or any other person whatsoever, to pull down, destroy or remove such parts of the said dams or other devices aforesaid as shall be deemed and adjudged by the said commissioners necessary and convenient to promote or improve the navigation aforesaid, but all and every such part of the said dams and other devices aforesaid the said overseers and all other persons whatsoever are hereby enjoined and required to suffer the same to remain unmoved, anything hereinbefore to the contrary in any wise notwithstanding.

[Section VIII.] And be it enacted by the authority aforesaid, That the said commissioners shall, once in every year, make report of their transactions in clearing, scouring and rendering navigable the said river to the assembly of this province for the time being, and shall lay before them a faithful and just account of all and every sum and sums of money by them had and received for the clearing the said river and in what manner the same shall be expended and laid out, that the same may be adjusted, settled and allowed.

[Section IX.] And be it enacted by the authority aforesaid, That an act passed in the third year of the reign of King George the Second, entitled "An act to prevent the erecting weirs, dams, &c., within the river Schuylkil," and the act passed in the eighth year of the same reign, entitled "An act the more effectually to prevent the erecting of weirs, dams, &c., within the river Schuylkil," and all and every article, clause and thing in the said acts contained, shall be and is hereby declared to be repealed, null and void to all intents and purposes whatsoever.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Acts of Assembly passed September 26, 1761, Chapter 470; February 21, 1767, Chapter 553; March 9,1771, Chapter 621; February 26, 1773, Chapter 680; April 6, 1776, Chapter 720; March 14, 1777, Chapter 747; March 24, 1781, Chapter 930; (the two acts of) March 15, 1784, Chapters 1075, 1078; March 28, 1785, Chapter

<sup>1</sup> Passed August 15, 1730, Chapter 318.

<sup>2</sup> Passed August 17, 1734, Chapter 335.

1146; February 27, 1786, Chapter 1200; March 9, 1786, Chapter 1211; March 3, 1788, Chapter 1334; September 28, 1789, Chapter 1446; April 13, 1791, Chapter 1569; April 11, 1793, Chapter 1692; April 8, 1799, Chapter 2063; March 1, 1800, Chapter 2113; March 25, 1805, P. L. 160; April 11, 1807, P. L. 276; April 1, 1823, P. L. 262; April 8, 1864, P. L. 350; May 24, 1871, P. L. 275; April 2, 1872, P. L. 729; April 28, 1873, P. L. 82, 886; June 3, 1878, P. L. 160; June 11, 1879, P. L. 163; May 23, 1887, P. L. 165; May 22, 1889, P. L. 267; April 15, 1891, P. L. 19; May 12, 1891, P. L. 52; June 24, 1895, P. L. 241; (the three acts of) June 25, 1895, P. L. 286, 295, 299.

# CHAPTER CCCCLXVI.

AN ACT TO ENABLE CERTAIN TRUSTEES TO SELL LANDS IN THE COUNTY OF PHILADELPHIA SETTLED IN TRUST FOR THE USE OF THE MINISTER OF OXFORD CHURCH, AND TO RECEIVE THE VOLUNTARY DONATIONS OF THE INHABITANTS AND WITH THE MONEY ARISING THEREFROM TO PURCHASE OTHER LANDS TO BE SETTLED TO THE SAME USE.

Whereas Solomon Hall, of the county of Philadelphia, tailor, being seized in fee or possessed of a certain tract or parcel of land situate in the township of Oxford in the same county, containing sixty-three acres, did, by his indenture bearing date the fifteenth day of June, in the year of our Lord one thousand seven hundred and twenty-four, for the consideration therein mentioned, grant and convey the same tract of land with its appurtenances unto Josiah Harper and Toby Leech, the younger, and their heirs forever, in trust and for the use and benefit of the minister of the established church at Oxford forever. whereas the said Josiah Harper and Toby Leech, being seized or possessed as aforesaid, did, by their indenture bearing even date with the deed above recited, covenant, grant and agree to and with the Reverend Robert Weyman, minister of the said church, and his successors therein forever that they, the said Josiah Harper and Toby Leech and the survivor of them and the heirs and assigns of such survivor should and would stand and be seized of and in all the said tract of land, with its appurtenances, to and for the use of the said Robert Weyman during

his continuing a minister of the said church, and to and for the use and benefit of the minister of the said church for the time being forever.

And whereas since the purchasing of the said tract of land for the uses aforesaid the church at Whitemarsh hath been, by the Honorable the Society in London for Propagating the Gospel in Foreign Parts, annexed to the mission of the said church at Oxford, and it hath been found by experience that the said tract of land is by no means conveniently situated for accommodating the minister of the said churches nor even commodious for and convenient to the church of Oxford aforesaid.

And whereas the messuage and tenements erected on the said tract of land for the habitation and use of the minister of the said churches have lately been by accident burnt down and destroyed.

And whereas the minister, churchwardens, vestry and members of the congregation of the said church of Oxford are desirous to sell the said tract of land, and with the moneys arising therefrom to purchase another tract more conveniently situated between the said churches for the uses aforesaid, and many charitably disposed persons have voluntarily subscribed sundry sums of money to be added to the sum which shall arise from the sale of the said tract of land with its appurtenances for the aforesaid uses: But inasmuch as the same cannot be effected without the aid of the Legislature, we, the trustees hereinafter mentioned, pray that it may be enacted:

[Section I.] And be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all that the said tract and parcel of land situate in Oxford Township aforesaid, particularly described in and by the aforesaid recited indentures, containing sixty-three acres, be the same more or less, with their appurtenances, and all houses, out-houses, edifices, buildings, ways, roads,

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waters, water-courses, rights, liberties, privileges, commodities and appurtenances whatsoever thereunto belonging or in anywise appertaining and the remainder and remainders, reversion and reversions, rents, issues and profits of all and singular the same premises, shall be, from and after the publication of this act, settled on and vested in and the same are hereby and from thenceforth settled on and vested in the Reverend Mr. Hugh Neill, Isaac Ashton, Esquire, Samuel Swift, Jacob Leech (the son of Jacob Leech) and Jacob Duffield, their heirs and assigns, freed and discharged and absolutely acquitted, exempted and exonerated of and from the estates, uses and trusts limited, appointed, created or declared in and by the said recited indentures and every of them; and of, from and against all right, title, claim and demand of the said Josiah Harper and Toby Leech, the younger, their and every of their heirs and assigns forever; but nevertheless upon the special trust and for the purpose hereinafter mentioned, expressed and declared: That is to say, upon trust that they the said Isaac Ashton, Esquire, Samuel Swift, Jacob Leech and Jacob Duffield, or any two of them, with the said Reverend Mr. Hugh Neill or the minister of the said church for the time being, shall and do grant, sell and convey the lands and premises vested in them as aforesaid by such proper conveyance or conveyances as shall be devised in law to any person or persons whatsoever, that shall be willing to purchase the same, and to his, her or their heirs and assigns forever, for the best price that can or may be got for the same, and that the receipt or receipts of the said trustees, or any two of them, with the minister of the said church of Oxford, of and for the said purchase money on sale of the premises hereby directed to be sold shall be good and effectual to such purchaser or purchasers as shall pay the same; and that the said purchasers or any of them shall not after such receipt or receipts be answerable or accountable for any loss, misapplication or non-application of the said purchase-money or any part thereof.

[Section II.] And be it further enacted by the authority aforesaid, That the said trustees are hereby authorized, empowered and enabled to receive of and from any person or persons any sum or sums of money which have been or hereafter shall be subscribed for the uses and purposes hereinafter mentioned, provided the same do not in the whole exceed the sum of five hundred pounds, and to apply the same in the manner hereinafter directed.

Provided always, That the said trustees shall not, nor shall any of them, be answerable for any money to be received by them by virtue of the trust vested in them by this act, any otherwise than each person for such sum or sums of money as he shall respectively receive, and that no one of them shall be answerable or accountable for the acts, receipts, neglects or defaults of the other of them.

[Section III.] And be it further enacted by the authority aforesaid, That the moneys arising by such sale and subscriptions shall be vested in and the same are hereby declared to be vested in the said Reverend Mr. Hugh Neill, Isaac Ashton, Samuel Swift, Jacob Leech and Jacob Duffield, or any two of them, upon the trusts and to the end, intent and purpose hereinafter mentioned: That is to say, in trust and to the end that the said trustees or any two of them shall, with the consent and approbation of the said Reverend Mr. Hugh Neill, or the minister of the said church of Oxford for the time being, lay out and dispose of the said moneys arising by such sale and subscriptions aforesaid in the purchase of other lands and tenements more convenient and commodiously situated for the habitation, use and advantage of the minister for the time being of the said church of Oxford, and for erecting houses and buildings necessary for the use and convenience of such minister, which lands or tenements so to be purchased shall be entitled to all the rights, moneys and donations heretofore given and granted to the uses of the former glebe-land, and immediately after the purchase thereof shall be settled and are hereby declared to be and enure forever to and for the use, benefit and behoof of the minister of the church of England at Oxford aforesaid, for the time being, in the same manner and according as the same is particularly set forth, contained and specified in the said last-recited indenture of covenant and to no other uses, intents or purposes whatsoever.

Saving and always reserving to all and every person and per-

sons, bodies politic and corporate, his, her or their heirs, successors, executors and administrators, all such estates, rights, titles, interests, claims and demands of, in, to and out of the lands and premises to be sold as aforesaid, as they and every or any of them had before the passing of this act, or should or might have had or enjoyed in case this act had never been made.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II.

# CHAPTER CCCCLXVII.

AN ACT FOR LAYING A DUTY ON NEGROES AND MULATTO SLAVES IM-PORTED INTO THIS PROVINCE.

We, the representatives of the freemen of the Province of Pennsylvania, desire that it may be enacted:

[Section I.] And be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the Representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That for every negro or mulatto slave which shall be imported, landed or brought into this province at any time after the passing of this act, other than such negroes and mulatto slaves as are actually shipped for sailors and shall continue in the service of the vessel they were brought in, and not be exposed to sale in this province, and other than such negroes and mulatto slaves as shall be brought or sent into this province upon their masters' immediate business and not to remain in the province or for sale, there shall be paid the sum of ten pounds, and that all masters of vessels and others who shall after the passing of this act bring into this province by land or water any negroes or mulatto slaves shall forthwith make entry and give, or cause to be given, on oath or affirmation, to the person hereafter appointed to collect the said duty or his lawful deputy a true and just account of all the negroes or mulatto slaves so imported or brought in and to whom they respectively belong, which the said collector shall duly enter into a book for that purpose, and thereupon shall grant a permit, for which the person obtaining the same shall pay the sum of two shillings and six pence for every negro or mulatto slave contained in the said permit for landing or bringing them in.

[Section II.] And be it further enacted by the authority aforesaid, That every master of a vessel or other person who, by this act, are obliged or ought to make such entry as aforesaid and shall refuse or neglect to make the same accordingly within the time and in the manner directed by this act, and being thereof convicted before any one justice of the peace or before the mayor or recorder of the city of Philadelphia for the time being, shall forfeit for every negro or mulatto slave of which he ought to give an account to the collector of the duties imposed by this act, the sum of thirty-five shillings, to be levied upon the goods and chattels of the party offending, by warrant under the hand and seal of the justice or of the mayor or recorder aforesaid before whom the party is convicted. And that every such importer, owner or claimer of such negroes or mulatto slaves shall, before landing of them, pay down the said duty or otherwise become bound to the collector for the time being with one or more sufficient sureties, or procure some other sufficient person or persons to be bound to the said collector, to answer and pay the said duty hereby imposed upon such negroes or mulatto slaves, within six months next after the date of the said obligation, for which the collector shall receive of the party the sum of two shillings and six pence and no more.

[Section III.] And be it further enacted by the authority aforesaid, That if any of the said negroes or mulatto slaves shall be imported, landed or brought in during the continuance of this act without making entry and obtaining a permit as aforesaid or without paying or giving security for payment of the said duty in manner aforesaid, that then all the negroes or mulatto slaves so imported, landed or brought, or the value of

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them if they cannot be found, shall be forfeited by the importer or owner, one moiety (after the said duty and all charges of seizure and prosecution are deducted) shall go to the governor for support of government and the other half (after the said deduction) to the said collector or such other person as will sue for the same in any court of record in this province by bill, plaint or information wherein no essoin, protection or wager of law or any more than one imparlance shall be allowed.

[Section IV.] And be it further enacted by the authority aforesaid, That the said collector of the said duty arising by this act or his deputy shall have full power and authority by virtue hereof, without any further or other warrant, to enter on board any ship or vessel and into any house or place whatsoever where he shall suspect any of the said negroes or mulatto slaves to be concealed, and make searches and do all other matters and things which may tend to secure the true payment of the said duty and the due and orderly collection thereof; and in case of opposition or refusal the said collector or his deputy, with the assistance of the sheriff, water-bailiff, constable or other officer, who, without any other or further warrant, are enabled and required, under the penalty of five pounds for every neglect or refusal in that behalf, to be recovered as aforesaid, to be aiding and assisting to the said collector to seize the said negroes and mulatto slaves which shall be concealed or endeavored so to be as aforesaid, and for that end to break open doors and other things in the daytime and to do and perform all other act and acts which by this act is and are required to be done for collecting, receiving and recovering of the said duty and the penalties and forfeitures herein mentioned, or for making seizures of negroes or mulatto slaves landed or brought in without making entries and paying and securing the said duty in as full and ample manner to all intents as any of the collectors or officers of the King's customs may or can do by the laws of Great Britain.

[Section V.] And be it further enacted by the authority aforesaid, That all masters of vessels and others trading in the river Delaware and coming into any port or place of this province having negroes or mulatto slaves on board which by this act are liable to pay the said duty are hereby required under the

penalty of thirty-five shillings to comply with the directions of this act, as if such vessel came from sea directly, and that all persons obliged by this act to pay the said duty shall apply to the said collector or his deputy without any notice given or request made by him for their so doing.

[Section VI.] And be it further enacted by the authority aforesaid, That in case any vessel shall arrive at any port, member, creek or landing-place in this province with any negroes or mulatto slaves on board and there remain the space of forty-eight hours without making entry, under pretense of going to some other port or any other pretense whatsoever, the master or owner of the said vessel shall give a true account of the number of negroes or mulatto slaves on board, and shall give security to the said collector or his deputy that he shall not land any of the said negroes or mulatto slaves without entry made and permit obtained from the said collector under the penalty of seizure and forfeiture of the said negroes or mulatto slaves, to be recovered as aforesaid.

Provided always, That if any of the said negroes or mulatto slaves for which the said duty is paid or secured as aforesaid shall within the space of six months be exported (or carried out to sea), then and in such case three-fourths of the said [duty] hereby imposed shall be abated for such of them as shall be exported as aforesaid, and on payment of the remaining one-fourth part the security given shall be delivered up and discharged, and the officer shall and may deduct five shillings per head for his care and trouble therein.

Provided also, That all such negroes or mulatto slaves for which such deduction shall be made shall actually and bona fide be forthwith shipped off or sent out of this province, so as not to return again without complying with this act under the penalty of seizure and forfeiture as aforesaid.

Provided always nevertheless, That if any person or persons shall, during the continuance of this act, transport him or themselves with their families and negroes or mulatto slaves in order to settle in this province, and shall upon oath or affirmation declare before the said collector or his deputy, who are hereby empowered to administer the same, that such negroes or mulatto

slaves so brought in are for their own service and not for sale, he or they shall not be liable to pay the said duty for such negroes or mulatto slaves, but shall forthwith give security to the said collector (which he is hereby empowered and required to take) by a bond of the full value of such negroes or mulatto slaves conditioned for the payment of the rates aforesaid, and in case such negroes or mulatto slaves shall be sold or the property of them directly or indirectly altered within the space of eighteen months after the date of such bond.

And to prevent the clandestine practice of landing or bringing in of negroes or mulatto slaves into the remote parts of this province by masters of vessels, merchants or others without making entry of and paying the duty for the same according to the direction of this act:

[Section VII.] Be it enacted by the authority aforesaid, That the constables of the respective townships, hundreds or wards within this province shall and are hereby obliged, under the penalty of twenty shillings for every refusal or neglect, upon oath or affirmation, which the said justices or some of them are hereby required to administer, to bring in a list to the respective courts of quarter sessions for the city or county where they live of all the negroes or mulatto slaves that shall come or be brought into their respective townships or wards and by whom the said negroes were imported or brought in and in whose possession such negroes or mulatto slaves are; and the collector or his deputy or deputies in the respective counties shall and may have recourse to the returns of the constables for the better collecting the duties, fines and forfeitures arising by virtue of this act.

[Section VIII.] And be it further enacted by the authority aforesaid, That Richard Pearne, of Philadelphia, shall be and is hereby appointed the collector of the said duty hereby imposed; and receiver of all fines, forfeitures and penalties hereinbefore appointed to be set, imposed and levied by virtue of this act, which the said collector by himself or his deputy is hereby empowered to demand, collect, receive and recover of and from all persons importing, landing or bringing in any negroes or mulatto slaves during the continuance of this act, and shall from time to time take all bonds required to be given as aforesaid.

And the said collector shall keep fair and true accounts in writing of all such transactions relating to the premises, which he shall from time to time submit to the view and inspection of the provincial treasurer and lay the same before the assembly when thereunto required, and once in six weeks or oftener if required during the continuance of this act pay into the said treasurer's hands all such sums of money as he shall receive by virtue of this act, and shall deduct out of the same for his own use five per cent. for all sums so by him paid and shall further be allowed by the said treasurer in the final adjusting of his accounts all reasonable charges by him expended in the prosecution of the said seizures and recovery of any of the said fines, forfeitures and penalties in pursuance of this act.

Provided always, That the said collector, before he enters upon the execution of his office, shall be sworn or attested before some justice of the peace, and shall, with one or more sufficient sureties, become bound in and [sic] an obligation of five hundred pounds to the treasurer conditioned for the true and faithful execution of his said office.

[Section IX.] And be it further enacted by the authority aforesaid, That if any person or persons shall at any time be sued or prosecuted for anything done in pursuance of this act, such person or persons so sued or prosecuted may plead the general issue and give this act and the special matter in evidence for their excuse or justification, and if the plaintiff or prosecutor become nonsuit or forbear prosecution or suffer a discontinuance, or if a verdict pass against him in such action, suit or information, the defendant shall have treble costs, as in any case where costs by law are given to defendants.

[Section X.] And be it enacted by the authority aforesaid, That all duties arising by virtue of this act shall be paid to the uses and purposes of an act passed in the twelfth year of the late King George the First, entitled "An act for the better regulating of negroes in this province," so far as it relates to the payment of the owners or masters of negroes convicted of capital crimes and executed in this province; and the overplus, if any, shall be paid into the hands of the provincial treasurer, to be

<sup>1</sup> Passed March 5, 1725-26, Chapter 292.

applied towards sinking the sums of money heretofore granted to the King's use.

[Section XI.] And be it further enacted by the authority aforesaid, That this act shall be and continue in force for four years from and after the publication thereof and from thence till the end of the next sitting of assembly and no longer.

[Section XII.] And be it further enacted by the authority aforesaid, That an act of general assembly of this province, entitled "An act for laying a duty on negroes imported into this province," be and is hereby repealed and made void.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Acts of Assembly passed April 22, 1761, Chapter 468; October 22, 1763, Chapter 505; February 20, 1768, Chapter 572; February 26, 1773, Chapter 681; September 7, 1778, Chapter 810. Repealed by the Act of Assembly passed March 1, 1780, Chapter 881.

#### CHAPTER CCCCLXVIII.

A SUPPLEMENT TO AN ACT, ENTITLED "AN ACT FOR LAYING A DUTY ON NEGROES AND MULATTO SLAVES IMPORTED INTO THIS PRO-VINCE." 1

Whereas Richard Pearne, the officer appointed in and by virtue of the act of general assembly, entitled "An act for laying a duty on negroes and mulatto slaves imported into this province," has since the publication thereof departed this life, and there remains no person to execute the several duties, matters and things by the same law enjoined and required to be done:

[Section I.] Be it therefore enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of

<sup>&</sup>lt;sup>2</sup> Passed May 10, 1729, Chapter 304.

<sup>1</sup> Passed March 14, 1761, Chapter 467.

Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives [of the freemen] of the said Province in General Assembly met, and by the authority of the same, That Thomas Combe, of the city of Philadelphia, is hereby nominated and appointed the officer to succeed him, the said Richard Pearne, in the said office, who, immediately from and after the passing of this act, is hereby fully authorized and strictly enjoined and required to do, execute and perform all and singular the matters and things whatsoever enjoined and required to be done by him, the said Richard Pearne, in and by the said recited act had he survived, as fully and amply to all intents and purposes as the said Richard Pearne could or might have done, and as fully as if the said Thomas Coombe had been nominated and appointed in and by virtue of the said act, he, the said Thomas Coombe, before he enters upon the execution of his said office first giving bonds, with one or more sufficient sureties, to the provincial treasurer for the time being in the sum of five hundred pounds, with condition for the due execution of his trust and performance of all things required of him as well by this act as the said act to which this act is a supplement.

[Section II.] And be it enacted by the authority aforesaid, That this act shall continue in full force and virtue for and during the continuance of the said recited act of assembly to which this act is a supplement and no longer.

Passed April 22, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed March 14, 1761, Chapter 467; and the Act of Assembly passed February 20, 1768, Chapter 572.

# CHAPTER CCCCLXIX.

A SUPPLEMENT TO AN ACT, ENTITLED "AN ACT TO PREVENT THE EXPORTATION OF BAD OR UNMERCHANTABLE STAVES, HEADING, BOARDS AND TIMBER." 1

Whereas it has been found by experience that the act, entitled "An act to prevent the exportation of bad or unmerchantable staves, heading, boards and timber," is in sundry respects defective and wants amendment, for remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and [Richard Penn] Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the [freemen of the said] Province in General Assembly met, and by the authority of the same, That if any person or persons whatsoever after the publication of this act shall willingly or wittingly intermix and mingle any cullings of staves or heading with any merchantable staves or heading which have been once culled, and shall offer the same for sale to any person or persons whatsoever, every such person shall forfeit and pay the sum of twenty shillings for every hundred of cullings, and so in proportion for any greater or lesser quantity so intermixed with merchantable staves and heading as aforesaid.

[Section II.] And be it enacted by the authority aforesaid, That no deputy or deputies appointed or to be appointed by virtue of the above-recited act of assembly shall cull or count any staves or heading whatsoever without having first obtained from his principal an order in writing under his hand for culling and counting the same, under the penalty of five shillings for every thousand staves or heading which he or they shall so cull and count without such order as aforesaid; and that every deputy or deputies aforesaid shall, within six hours after he

<sup>1</sup> Passed April 21, 1759, Chapter 439.

or they shall have so culled and counted the staves and heading so directed by the said order to be culled and counted, make return to his or their principal aforesaid a true and exact account of his or their transactions therein, under the penalty of one shilling for every hour he shall neglect or refuse so to do, in order that such transactions may be regularly entered in the book directed by the before-recited law to be kept by the principal officer aforesaid.

[Section III.] And be it enacted by the authority aforesaid, That in order to detect any fraudulent practices against this act, every officer or his deputy or deputies aforesaid shall, at the time of culling or counting any staves or heading, with a proper instrument to be made for that purpose, mark or impress with the letter C. near the middle, every defective or unmerchantable stave or piece of heading by him or them so culled and counted, and that for every hundred of such cullings by the said officer or his deputies so counted and marked, they or either of them shall demand and receive the sum of three pence and no more, to be paid one-half by the seller and the other half by the purchaser of such cullings as aforesaid.

[Section IV.] And be it further enacted by the authority aforesaid, That the penalties and forfeitures inflicted in and by virtue of this act shall be recovered, appropriated and applied in the same manner and to the same uses and purposes as the penalties and forfeitures imposed on offenders in and by virtue of the said recited act of assembly are directed to be recovered and applied, and in no other manner whatsoever.

Passed April 22, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed April 21, 1759, Chapter 439. Repealed by the Act of Assembly passed May 20, 1767, Chapter 562.

#### CHAPTER CCCCLXX.

AN ACT FOR APPOINTING CERTAIN PERSONS HEREINAFTER NAMED TO APPLY FOR AND RECEIVE THE DISTRIBUTIVE SHARES AND PROPORTIONS WHICH ARE OR SHALL BE ALLOTTED TO THIS PROVINCE OUT OF THE SUM OR SUMS OF MONEY GRANTED, OR TO BE GRANTED, BY PARLIAMENT TO HIS MAJESTY'S COLONIES IN AMERICA.

Whereas in pursuance of several most gracious recommendations from the Throne to the Parliament of Great Britain, they have been pleased to grant several large sums of money towards making a compensation for the aids and supplies granted to His Majesty by this province and the other colonies in America during the present war, agreeable to His Majesty's requisitions by his Secretary of State's letters, part of which said grants hath been already received, being the sum of twenty-six thousand nine hundred and two pounds eight shillings: And whereas we have been informed by our agents that a further allotment or proportion has been made by the lords of the treasury of the Parliamentary grant for the year one thousand seven hundred and fifty-nine wherein the apportioned part of this province is nearly the same with that heretofore received for the year one thousand seven hundred and fifty-eight. And whereas it is necessary that some persons be appointed in behalf of this province and invested with proper powers and authority to apply for and to have, take and receive of and from His Majesty or such person or persons as he shall be graciously pleased to appoint for the payment thereof the sum or sums of money which is, are or shall be allotted, given and granted to this province as its distributive share granted or to be granted as aforesaid:

[Section I.] Therefore be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the

advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That John Sargent, George Aufrere, David Barclay, junior, and John Barclay, merchants in London, or the survivor or survivors of them are hereby appointed and fully authorized and empowered in a due and proper manner to make application to His Majesty or such person or persons as shall be appointed for the payment thereof for the further sum or sums of money which is, are or shall be allotted to this colony as the distributive share and proportion of the said sum or sums of money granted and apportioned or hereafter to be granted as aforesaid, and to have, take and receive the same of and from such person or persons as shall be appointed for the payment thereof and when received to deposit the same in the Bank of England or some other safe place in their names but for the use of this province, subject to the drafts and bills of exchange to be drawn upon them [the] said John Sargent, George Aufrere, David Barclay, junior, and John Barclay or the survivors or survivor of them in the manner hereinafter directed.

[Section. II.] And be it further enacted by the authority aforesaid, That Thomas Leech, Charles Norris, Mahlon Kirkbride. Francis Yarnall and James Wright, the trustees of the general loan-office of this province, or any three of them, shall and they are hereby enjoined and required as soon as they shall be certified by the governor, the said John Sargent, George Aufrere, David Barclay, junior, and John Barclay, or either of them, that the said distributive share or shares have been received by the said John Sargent, George Aufrere, David Barclay, junior, and John Barclay, or either of them for the use of the province, to draw bills of exchange upon them the said John Sargent, George Aufrere, David Barclay, junior, and John Barclay, merchants of London, for the sum and sums of money already allotted in such manner as shall be most for the advantage and interest of this province (provided, nevertheless, that no bill of exchange or draft shall be made for any sum less than one hundred pounds sterling) until they shall have drawn for the whole sum so given, granted and allotted to this colony, and when drawn to sell and dispose [of] the said bills or drafts for the

best price that may be had for the same in bills of credit of this province, which bills or drafts shall be drawn in the following form and no other, That is to say:

"Exchange for £......, Philadelphia, ...... At thirty days' sight of this our first per exchange, our second, third and fourth of the same tenor and date unpaid, pay unto ..... or order ..... pounds sterling, for value received, and charge it to the province of Pennsylvania; but if it is not paid at said thirty days' sight, then pay interest on that sum from the expiration of the said thirty days until paid at the rate of six pounds per centum per annum, and if this bill and interest is not paid in one year from the date hereof we do hereby oblige ourselves, our heirs, executors and adminstrators to pay the said bill with interest from the date thereof, at the above rate until paid, when it shall be returned with a protest to us, but no other damages; on this condition nevertheless, that if payment be not demanded within six months after the date of the said protest, the interest from that time shall determine and cease.

To John Sargent, George Aufrere,
David Barclay, junior, and John
Barclay, merchants in London, or
the survivors or survivor of them.

[Section III.] And be it further enacted by the authority aforesaid, That no drafts or bills of exchange shall be made or drawn for any sum or sums of money granted or hereafter to be granted by the Parliament for the purposes aforesaid until the share or allotment granted and apportioned for the use of this colony be received and made known to the said trustees by the governor or the said John Sargent, George Aufrere, David Barclay, junior, and John Barclay or either of them; but when and so often as such grants and allotments shall be made known to the said trustees, then it shall and may be lawful for the said trustees, and they are hereby authorized and enjoined, forthwith to draw bills of exchange for the whole sum and sums of money so granted and received in the manner hereinbefore directed and appointed.

[Section IV.] And be it further enacted by the authority aforesaid, That the said Thomas Leech, Charles Norris, Mahlon Kirkbride, Francis Yarnall and James Wright shall and they are hereby authorized, empowered and enjoined, out of the

money that shall arise by or from the sale of such drafts or bills of exchange to pay and discharge all such certificates and drafts on the provincial treasurer as have been heretofore drawn by order of assembly for salaries of officers and services done the public which yet remain unpaid through a deficiency of money in the said provincial treasurer's hands to such purposes appointed, and also all such certificates as may be drawn for the service of the current year; and likewise to make payment to the masters or owners of servants heretofore enlisted into His Majesty's service and to the public house-keepers for quartering soldiers of all such sum and sums of money as shall appear to the governor and commissioners and be by them certified to be justly due and properly chargeable to this province; and the sum of three thousand pounds to be paid to the contributors to the Pennsylvania Hospital and applied by the managers in replacing the several sums borrowed from the capital stock and for such other purposes as they shall find necessary in carrying on the charitable design of the said hospital; and also the further sum of one thousand pounds to assist the undertakers and subscribers towards making the river Schuylkill navigable, to be paid to the commissioners for that purpose.

[Section V.] And be it further enacted by the authority aforesaid, That the said trustees shall, towards sinking the sum and sums of money heretofore granted to His Majesty's use and in abatement of the taxes directed to be laid for that purpose, pay and deliver all the remaining part of the money that shall arise by the sale of such drafts or bills of exchange within one month after making such payments as are hereinbefore mentioned and appointed into the hands of the committees of assembly who shall be yearly appointed to settle the public accounts in bills of credit of this province, which said bills of credit the said committees are hereby authorized, enjoined and required to burn, sink and destroy.

[Section VI.] And be it further enacted by the authority aforesaid. That the said trustees of the general loan office, for their trouble in receiving and paying the moneys and performing the duties required of them by this act, shall have and receive the sum of twenty shillings for every hundred pounds, and no more.

And that the said John Sargent, George Aufrere, David Barclay, junior, and John Barclay shall have and receive for their care and trouble in receiving the moneys and performing the duties required of them by this act the sum of twenty shillings for every hundred pounds, and no more.

Passed September 26, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See appendix XXIV, Section II, and the Acts of Assembly passed May 14, 1762, Chapter 483; March 4, 1763, Chapter 488; October 22, 1763, Chapter 505.

#### CHAPTER CCCCLXXI.

AN ACT FOR THE RELIEF OF WILLIAM GRIFFITTS, WITH RESPECT TO THE IMPRISONMENT OF HIS PERSON.

Whereas William Griffitts, of the city of Philadelphia, merchant, by his petition to this house hath set forth [that] by losses in trade for several years successively he found himself about eighteen months ago incapable of paying his creditors their respective just demands; whereupon, to do equal justice to each of them as far as lay in his power, by and with the approbation of far the greatest part of them, he did convey and deliver up to certain trustees named and chosen by a majority of the said creditors all and every part of his real and personal estate excepting only one hundred pounds reserved by the consent of his said creditors to pay certain poor persons for sums of money left in his, the said William Griffitts' hands to which said surrender of the said William Griffitts' real and personal estate his wife also added all her estate, amounting to several thousand pounds, on condition that his the said William Griffitts' body should be free from arrest and imprisonment; yet that some of his creditors refuse to agree (as almost all the rest of his creditors have done) to take their ratable proportion of what the whole of his and his wife's estates may produce, holding his body to bail and thereby obliging the trustees of the said estates to suspend

making the intended dividend thereof amongst all his creditors, expecting himself daily to be closely confined in gaol and praying such relief in the premises as shall be thought reasonable and just with regard to himself, and that the said trustees may be enabled to make equitable distribution of his and his wife's estates [as aforesaid] amongst all his creditors.

And whereas Charles Norris, John Reynell, attorney to Elias Bland, Daniel Rundle, Joseph Richardson, William Fisher, Joshua Howell, James & Drinker for themselves and William Neale, John Nixon, Thomas Carpenter, Thomas Moore, Joseph Wharton, junior, Charles Monk, Oswald Eve, Robert Field, Francis & Relfe, Samuel Ormes, Reed & Petit, Peter Wikoff, for John & Peter Wikoff, John Mease, John Nelson attorney for Charles Steuart, William Plumsted, Lester Falconar, Robert Lewis & Son, William Brown, Charles West, William Rush, George Robotham, Owen Jones, Benjamin Kendall, Isaac Greenleafe, Jacob Shoemaker, junior, James Eddy for Crosby & Trafford, Joseph Parker, James Benezet, Scott & McMichael, Israel Pemberton, Moore & Kinsey and Kerney & Gilbert, creditors of the said William Griffitts, have likewise by their petition to this house set forth that the said William Griffitts for many years past carried on an extensive trade in merchandising, and that about eighteen months past he was obliged to stop payment and upon an inspection into the state of his affairs it appeared he had not sufficient to pay his just debts; 12 pon which many of his creditors met and named certain persons to receive a conveyance of his estate in trust for the benefit of all his creditors with which he complied, and his wife generously joined therein and conveyed for the benefit of her husband's creditors a very considerable real estate to be sold, and the money arising to be equally divided amongst them, on this condition, that her husband's body should not be held to bail imprisoned, which the trustees appointed by the creditors, and most of the said creditors thought just and reasonable; but he was so unfortunate as to be indebted to some who have, regardless of his and his family's distresses, refused to agree (as almost all the creditors have done) to accept of their dividend of the estate so conveyed, holding him, the said William Grif-

fitts to bail, and he now shortly expects to be made a close prisoner in the common gaol, whereby the said petitioners apprehend that the good intentions of the conveyance of the said estate will be delayed if not defeated, to the petitioner's great prejudice, and therefore pray that this house will be pleased to take the premises into their consideration and grant such relief therein as they may see meet; therefore as it has been made appear by the aforesaid deed of conveyance laid before this house that the said William Griffitts and Abigail, his wife, have made over and conveyed unto Charles Norris, Joseph Richardson, Daniel Rundle, Abel James, Jacob Shoemaker, junior, and Joshua Howell all his the said William Griffitts' estate, both real and personal, except the value of one hundred pounds in the aforesaid petition mentioned and reserved with the consent of the creditors of the said William Griffitts, or the greatest part of them, to pay certain poor persons for sums of money left in the hands of the said William Griffitts; and also a very considerable estate belonging to the said Abigail, his wife, in trust and for the use of his, the said William Griffitts' creditors, to be equally proportioned and divided amongst them according to the respective debts to them and each of them due from the said William Griffitts.

And whereas by a certain writing also laid before the house under the hands of the said Charles Norris, Joseph Richardson, Daniel Rundle, Abel James, Jacob Shoemaker, junior, and Joshua Howell, trustees named and appointed by the aforesaid William Griffitts and Abigail, his wife, by their said indenture bearing even date with the said writing, they, the said Charles Norris, Joseph Richardson, Daniel Rundle, Abel James, Jacob Shoemaker, junior, and Joshua Howell did agree that the said indenture and every clause, article and thing therein contained should be null and void and of no effect unless the creditors of the said William Griffitts should agree that the said William should not be held to bail for any debt contracted before the date of the conveyance aforesaid:

Therefore, that the good intentions of the said conveyance may not be delayed or defeated we request the governor that it may be enacted:

[Section I.] And be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said Charles Norris, Joseph Richardson, Daniel Rundle, Abel James, Jacob Shoemaker, junior, and Joshua Howell, trustees by the creditors of the said William Griffitts nominated and appointed, or the survivors of them, shall, with the consent of the creditors of the said William Griffitts or a majority of them, as soon as may be after the passing of this act, proceed to make a just and equal distribution to and amongst all the creditors of the said William Griffitts in proportion to the several and respective debts justly due to them of all the sum and sums of money that shall by virtue of the said conveyance or deed of trust or by any other means whatsoever come into their hands of the estate of the said William Griffitts or of his said wife by virtue of the conveyance or deed [of trust] aforesaid, and thereupon give and take receipts and acquittances according to the true intent and meaning thereof.

And in order to prevent all fraud or collusion in the premises and that an impartial inquiry may be made and equal justice may be done to the creditors of the said William Griffitts:

[Section II.] Be it further enacted by the authority aforesaid, That the said Charles Norris, Joseph Richardson, Daniel Rundle, Abel James, Jacob Shoemaker, junior, and Joshua Howell or the survivors of them shall have power by virtue of this act to inquire of and concerning the delivery up or vesting the whole estate both real and personal of the said William Griffitts, except as before excepted, to them the said trustees for the use of his creditors, and in order to a discovery of the truth of the matter shall have full power and authority to cite before them all such persons as they shall find necessary and also [to] examine the said William Griffitts or other persons on oath or affirmation touching the premises; and if upon examination of the matter the said trustees, or the major part of them

or of the survivors of them, shall certify to the judges of the Supreme Court or to the justices of the court of common pleas within the county of Philadelphia that there doth not appear to them any fraud or collusion in the delivery up of the estate, real and personal, of him the said William Griffitts, but that the said estate (except as before excepted) hath been fairly delivered up and that no part thereof hath been by the said William secreted or fraudulently made and conveyed to any person or persons in trust for him or for any other person or persons whatsoever, then it shall and may be lawful for the judges of the Supreme Court or the justices of the court of common pleas aforesaid and they are hereby enjoined to administer an oath or affirmation to the effect following, viz.: That the said William Griffitts by one indenture or conveyance dated the nineteenth day of April, one thousand seven hundred and sixty, signed and executed by himself and Abigail, his wife, hath delivered up and made over to the said Charles Norris, Joseph Richardson, Daniel Rundle, Abel James, Jacob Shoemaker, junior, and Joshua Howell all his estate, real and personal, which he or any in trust for him have, had or was in any respect entitled to in possession, remainder or otherwise at the time of signing and executing the conveyance aforesaid (except as [is herein] before excepted) and that he has not at any time since or before, directly or indirectly, sold, leased, assigned or otherwise disposed of or made over in trust for himself or otherwise any part of the lands, estate, goods, stock, money or other real or personal estate, whereby to have or expect any benefit or profit to himself or with design to defraud any of his creditors to whom he is indebted.

And the said William Griffitts having taken such qualification and his creditor or creditors being therewith satisfied or failing to discover any effects or estate of the said William by him not made over as aforesaid or secreted, then the said judges of the Supreme Court or justices aforesaid, or any two of them, shall order the certificate of the trustees hereinbefore mentioned to be recorded; from and immediately after the recording of which certificate in manner aforesaid all recognizances for special bail entered into or acknowledged by the

said William Griffitts, or any person or persons for him, in any action or actions heretofore commenced against the said William Griffitts by any person or persons whatsoever within this province, and all bail bonds given to any sheriff in this province, conditioned for the appearance of the said William Griffitts in any court to answer the plaintiff in any action heretofore commenced or prosecuted against him, shall be and are hereby declared to be null and void to all intents and purposes whatsoever, and this act shall and may at all times hereafter be pleaded and in any court of law shall be deemed and adjudged to be a bar to all suits commenced on such recognizances or bail bonds, and judgment shall be given therein against any such plaintiff with costs of suit, and the body of him, the said William Griffitts, shall forever after the recording such certificate be freed, exempted and discharged from confinement on account of any debts heretofore contracted, and such estate only as he now is or hereafter shall be entitled to shall be subject to execution.

[Section III.] Provided always, and it is hereby further enacted and declared. That until the determination of the trustees hereinbefore named shall be certified and recorded as is hereinbefore directed, the said William Griffitts shall not be confined in the common gaol or prison for the said county, but shall be at liberty to go anywhere within the said county upon his giving bond with security to the sheriff of the said county sufficient to satisfy the several actions brought against him, the said William Griffitts, and for which he is already held to bail, that he will not depart or go out of the said county until the determination of the said trustees shall be certified and recorded as aforesaid, and that then he will deliver himself up to the said sheriff in case he should not be discharged by virtue of this act; and the said sheriff is hereby exempted from any action or actions of escape or other suits or actions on account of the liberty hereby allowed to the said William Griffitts, any law to the contrary hereof in any wise notwithstanding.

Passed September 26, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II. Private act.

# CHAPTER CCCCLXXII.

AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF SCHUYL-KIL POINT MEADOW LAND, IN THE COUNTY OF PHILADELPHIA, TO KEEP THE BANKS, DAMS, SLUICES AND FLOOD-GATES IN REPAIR AND TO RAISE A FUND TO DEFRAY THE EXPENSE THEREOF.

Whereas there is a certain parcel of meadow land and marsh, situate in the township of Passyunk on the east side of the river Schuylkil, beginning at the fast land of Henry Elves and John Hannis, near the mouth of Spike's Creek and running thence along the several courses of the river Schuylkil to the mouth thereof, thence up the river Delaware to the mouth of Hollander's Creek, thence up the same creek to the line between Joseph Turner and Joseph Sims up a small branch called Little Creek, thence along the said line to the fast land, thence along the several courses of the fast land to the place of beginning, named and called The Schuylkil Point Meadows, which for a considerable time past has been embanked, but of late has been greatly impaired and out of order for want of proper management and regulations:

[Section I.] Therefore be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the Representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That Hugh Roberts, Enoch Flower, Samuel Rhoads, Andrew Bankson, Joseph Johnson and John Smith, or any four of them are hereby nominated, authorized and appointed within two months after the publication of this act to divide the banks which surround and include all that the said tract or piece of marsh and meadow land, and allot and appoint how many perches of the said bank each owner or possessor of the said tract shall make, repair, maintain and support in proportion to the

number of acres of meadow he holds therein, allotting the part and proportion so to be made, repaired, maintained and supported as near and convenient as may be to the land of each respective owner thereof, beginning the allotments at the place of beginning aforesaid, all which said allotments and divisions, so made and signified by an instrument in writing under the hands and seals of any four of them, shall be the proper shares, parts, proportions, and quantities of bank for the several owners or possessors of the said meadow to make, repair and support at their own proper expense and charge.

[Section II.] And be it further enacted by the authority aforesaid, That the owners, occupiers and possessors of the said tract of meadow land respectively whose allotments, shares or parts of the bank are in any wise defective shall within three months from the publication hereof cause them to be put in good and substantial repair, and make up or cause their respective parts of the banks so as aforesaid allotted to be made up level on the top and sufficiently strong and secure to defend the said meadows from all inundations; for which end the said banks shall always be kept at least six inches above all tides by each and all of the said owners, possessors or occupiers on their and each of their parts so as aforesaid to them respectively allotted under the penalty of ten shillings for each and every acre they respectively hold in the said tract, to be paid to the said company's treasurer by the persons so neglecting or refusing, to be levied by the managers for the said tract hereafter to be chosen if they see cause and added to the common stock.

[Section III.] And be it further enacted by the authority aforesaid, That the costs and charges of making, maintaining and amending the dams, sluices or flood-gates hereafter to be made, maintained or amended shall be paid by all the owners, occupiers or possessors of the land in the said tract according to the number of acres that they and each of them shall hold, possess and occupy, and that the same shall be made, supported and amended in such manner as the managers for the said Schuylkil Point Meadows hereafter to be chosen shall direct.

[Section IV.] And be it enacted by the authority aforesaid, That it shall and may be lawful for the owners of the said Schuylkil Point Meadows, or as many of them as shall think fit to meet together on the second Tuesday in October yearly and every year at the court-house in Philadelphia or such other convenient place as shall hereafter be appointed by the managers to be chosen by virtue of this act, and then and there, by a majority of those met, shall choose by ballot five fit persons, owners or possessors of the said land, to be managers and one fit person to be treasurer for the said Schuylkil Point Company for the year then next ensuing.

[Section V.] And be it enacted by the authority aforesaid, That if any of the owners or possessors elected managers as aforesaid, on due notice given in writing of his election by some of the company present at the said election, shall refuse or afterwards neglect to do the duty required of him or them by this act, he or they so refusing or neglecting his duty shall forfeit and pay to the treasurer for the time being the sum of forty shillings, to be added to the common stock of the said company, unless he shall have served two years successively in the said office, which fine shall be recovered in the manner hereinafter directed for the recovery of other money payable to the treasurer of the said company, and the other managers shall proceed in the execution of their office without him or them, or if they think fit may choose others of the said owners or possessors to be manager or managers in the place of him or them so refusing or neglecting. And if the person so elected treasurer shall refuse or neglect to take upon him the duties or give the securities required by this act, or shall misbehave himself or by death or otherwise be rendered incapable to execute the said office, in any of these cases the managers for the time being shall choose another fit person (not a manager) to be the treasurer for that year.

[Section VI.] And be it enacted by the authority aforesaid, That every treasurer hereafter to be chosen shall, before he takes upon him the execution of his office, enter into an obligation with at least one sufficient security in double the value of the money that doth or may probably come into his hands during the continuance of his office as near as can be estimated by the managers, conditioned that he will, once in every three months

or oftener if required, render his accounts to the said managers and well and truly account, adjust and settle with them when required for and concerning all moneys that are or shall come to his hands by virtue of this act or that belong to the said company, and shall well and truly pay the balance that shall appear on such settlement to be in his hands to such persons and to such services as any three of the managers for the time being shall order and appoint and not otherwise, and that he will, at the expiration of his office, well and truly pay or cause to be paid and delivered all the money then remaining in his hands, together with the books of accounts concerning the same, and all other papers and writings in his keeping belonging to the said company unto his successor in the said office and that he will do and execute all other matters and things as treasurer to the said company according to the true sense and meaning of this act.

[Section VII.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said managers as often as they shall see occasion to meet together and lay such assessments and taxes on every acre of land belonging to the said company as they shall judge to be necessary for the benefit and security of the same.

And the said managers for the time being in every year are hereby empowered, authorized and required to enter upon and inspect, at least four times each year, the condition of all the said banks, dams, sluices, flood-gates and other conveniences necessary for stopping out the tides or draining the water from the said meadows, and if any part shall appear unfinished, damaged, decayed or destroyed, or more liable by its situation, nature of the soil or other circumstances to be washed away or destroyed than other parts, or shall be in any manner insufficient for the purposes aforesaid, they, the said managers, shall comsider and determine by what methods such part or parts may be made good and we are by wone or other firm and durable materials and on so h inspection and determination the said managers shall give in the to, and require the sale owners or presents ors or their grandbak if minors, and within the county of Palladelphia, form with to amend their and each of their party or allotments in such manner as they shall direct, all of which banks shall be of sufficient breadth and at least six inches above any tide that hath been known; and if such extraordinary work shall be directed by the managers to be done for the mending and supporting of any such parts of the banks as are or have been allotted as aforesaid so to be made, mended or supported by any of the particular owners or posesssors, then the expense and costs of such extraordinary work shall not be put on the person to whom that allotment was made, but shall be allowed to him and paid out of the common stock, he contributing his proportionable share and part thereto.

[Section VIII.] And be it enacted by the authority aforesaid, That if by any general overflowing of the water hereafter the banks, dams or sluices belonging to the owners of any one allotment shall be damaged or destroyed by the force of the water from within which hath been admitted by defects in the banks or dams belonging to the owners of other allotments in all such cases the delinquent owners shall pay all the costs of repairs unless the managers for the time being shall from any circumstances consider it as an act of Providence, in which case they may repair it at the general expense of all the owners of the said meadow lands and order the treasurer to pay the charge thereof.

[Section IX.] And be it enacted by the authority aforesaid, That if any owners or occupiers of the said lands or any guardian of a minor owner thereof so warned by the said managers shall refuse or neglect after such warning to amend and repair their respective parts agreeable to the direction of the said managers, or if any of the said owners or guardians are not known, or readily to be found within the said county at the time aforesaid, that then and as often as it shall so happen it shall and may be lawful to and for the said managers or any of them, together with such workmen, horses, carts, barrows and other tools as they shall think necessary to enter into and upon the lands of him, her or them where such breach or defect shall happen to be, and then and there to dig and carry earth or purchase suitable materials to make, amend and repair the said banks, dams, sluices, flood-gates and all other conveniences necessary for stopping out the tide or for draining the waters off the meadows in such manner and by such ways and means as they shall think fit and reasonable, any law of this province, usage or custom to the contrary in any wise notwithstanding. And they, the said managers, or any three of them, shall adjust and settle the expense thereof with those to whom such parts and shares of the banks so amended and repaired were before allotted as they shall think just and reasonable except as is before mentioned in case of any extraordinary expense arising from its situation, nature of the soil or other circumstances, in all which cases the extraordinary charge beyond what other allotments are subject to shall be paid out of the common stock, and shall also deliver to the said owners, guardians or possessors of the said meadow lands on whose allotments such repairs shall be made or to as many of them as shall be found their respective bills of the charge of repairing the said part of the bank to them before allotted and shall order payment accordingly; and in case of their or any of their refusal or delay of payment they shall order the treasurer for the time being to advance and pay so much out of the public stock as shall be sufficient to satisfy the said charge until it can be obtained of those who ought to pay the same.

And in order to establish a fund to defray sundry contingent and yearly expenses and to prevent any delay hereafter for want of money in case of inundations or extraordinary accidents:

[Section X.] Be it enacted by the authority aforesaid, That every owner or possessor of land in the aforesaid meadow tract shall, on or before the second Tuesday in November next, after publication hereof, pay or cause to be paid or deposited into the hands of the treasurer aforesaid the sum of two shillings current money of Pennsylvania for each and every acre they respectively have, hold, occupy or possess in the said meadow tract, exclusive of flats, creeks or waste lands. And all and every person or persons, whether owners or renters, who shall, on the second Tuesday in November in every year hereafter be owner, occupier or possessor of meadow land in the said tract, shall in like manner pay or deposit or cause to be paid or deposited into the hands of the treasurer for the time being such sum or sums of money as the managers for the time being shall find necessary

to assess and order, which sum, if paid by the aforesaid renter, he, the said renter, shall and is hereby empowered to deduct out of his rent.

So always and provided, That the sum of sixty pounds shall in the beginning of every year be in the treasurer's hands ready to be applied in the premises as occasion may require; of all which sums of money and all other money coming to his hands by virtue of this act, and of all disbursements and payments thereof from time to time made, the said treasurer shall, in books to be provided for that purpose, keep a just and true account, and shall pay and deliver the same according to the directions and orders of the managers for the time being or any three of them, and not otherwise.

[Section XI.] And be it further enacted by the authority aforesaid, That the managers for the time being shall, before the day hereinbefore appointed for the payment of the yearly quotas, deposit money or assessment cause a true list of the names of all and every of the said owners or possessors, with a true account of all and every acre of meadow in the aforesaid tract which they respectively have, hold, occupy and possess, exclusive of flats and creeks, according to the best information they can obtain, noting from time to time the several changes, alterations, transfers and alienations of right in the several parts and parcels thereof as they shall come to their knowledge, and shall furnish the treasurer with a true copy thereof, together with the sum per acre of the general assessment for the current year, when any alteration shall be of the aforesaid deposit of two shillings, according to which list or account the treasurer for the time being shall receive and take the several sums of their and each of their deposit money and assessment respectively in every year raised or assessed by this act, and shall cause public notice of the said rate or assessment per acre to be given at least ten days before the day of payment in every [year] hereafter, and in case any of the said owners, occupiers or possessors aforesaid shall refuse or neglect to pay or cause to be paid to the treasurer aforesaid on the days and times aforesaid the several sums of money which they respectively ought to pay or deposit according to the true intent and meaning of this act, they and each of them so neglecting and refusing shall forfeit and pay to the said treasurer the additional sum of two pence for every shilling unpaid which they respectively ought to have paid by the direction of this act, and afterwards shall, for every three months' neglect or refusal in like manner, forfeit and pay to the treasurer for the time being the like sum of two pence for every shilling which he, she or they failed of paying on the day or time appointed when they respectively ought to pay by the direction of this act at any time hereafter.

[Section XII.] And be it further enacted by the authority aforesaid, That if any of the said owners, possessors or occupiers shall neglect or refuse as aforesaid to pay the several sums of money, together with the forfeitures arising thereon, which they respectively ought to pay at any time or times hereafter for the space of twelve months after any of the days or times in which it ought to be paid, or shall have neglected or refused to make, amend or repair his, her or their part or share of the bank so as aforesaid to them allotted, or shall have neglected or refused to reimburse the treasurer for the time being the necessary expense thereof, agreeable to the direction of this act, that then and so often it shall and may be lawful to and for the said treasurer by direction of the said managers, or any three of them, in his own name, to sue all and every such person or persons so refusing or neglecting for the respective sum or sums of money which he, she or they ought to have paid by virtue hereof by action of debt, if five pounds or under, before any justice of the peace of the county, or if above [five] pounds, in any court of record where the same may be cognizable, and give this act and the said assessment or the said account, as the case may require, in evidence; and the said justice of the peace and the said court are hereby empowered and directed to give judgment and grant execution for the same, with costs of suit accordingly, to be levied on the tract or piece of marsh, meadow or cripple belonging as aforesaid to such owner or owners so neglecting or refusing, and delivered unto the managers for the time being, who, or any three of them, are hereby empowered and authorized to let out or rent any part of the said meadow belonging to any of the said owners who shall so neglect or refuse or who shall not be found in the county as aforesaid from year to year for so long time as until the rent or rents arising therefrom shall, as nearly as may be computed, pay all such sum or sums of money so assessed or so charged, together with all costs and forfeitures arising thereon, for his or their neglect or refusal to pay the same as aforesaid, and no longer.

Provided always, That in letting out the said meadow the said managers do publicly notify the leasing thereof, and let the same to the highest bidder at private sale or bargain.

[Section XIII.] And be it enacted by the authority aforesaid, That no process, suit or proceedings whatsoever which at any time hereafter shall be commenced, sued or brought before any justice of the peace or judges or justices of the common pleas or supreme court or before any magistrate of this province in the name of any treasurer of the said company by direction of the said managers or any three of them, shall be discontinued or put without day by reason of the death, disability or removal of such treasurer, but shall stand good and effectual in law to all intents and purposes notwithstanding such death, disability or removal.

[Section XIV.] And it is hereby further enacted by the authority aforesaid, That the managers for the time being, or any three of them, shall have the power of disposing of all moneys paid to the treasurer by virtue of this act, and of hiring and appointing at the expense of the said company any person or persons from time to time to inspect the condition of all the banks, dams, sluices, or flood-gates belonging to the owners of the said meadow land, who shall inform the respective owners and the said managers when any repairs are wanting; and the said managers, or any three of them, shall have power to displace such person or persons and appoint others as often as they shall think fit, and have power to offer and pay such reward as they think necessary out of the common stock for the destruction of such vermin as usually damage the said banks and dams, as well as for other general services of the said company.

[Section XV.] And be it further enacted by the authority aforesaid, That the said managers for the time being, or any

three of them, are hereby authorized and empowered, in behalf of the said owners to settle accounts with the treasurer from time to time and shall do and execute all other matters and things pertaining to the general good and benefit of the said owners.

Provided nevertheless, That if any owner or owners shall think him, her or themselves aggrieved by any order, account or proceeding of the said managers, such owner or owners shall, if he or they think proper, choose two fit and disinterested persons, and the said managers, or three of them, shall choose two other fit and disinterested persons, who (or any three of them) shall finally settle the same and all other matters and things in dispute that shall be referred to them by the said parties.

[Section XVI.] And be it further enacted by the authority aforesaid, That the orders of any three of the managers on the treasurer for the time being shall be complied with by the said treasurer and shall be good vouchers to indemnify him for the payment and delivery of the money and effects committed to his care by virtue of this act, and that all bonds, mortgages, deeds and conveyances in trust for the use of the said owners shall be taken in the name of the treasurer of the Schuylkil Point Meadows and be payable to him and his successors and shall be mentioned to be for the use of the owners thereof, and with or without assignment shall be good and available in law to his successor or successors in the said trust for the use of the owners [as] aforesaid, and shall be recoverable in any court of record in this province where the same may be cognizable, as fully and effectually to all intents and purposes as if the same were private property and duly assigned in all the forms of law; and the receipts and discharges of such succeeding treasurer or treasurers for any such sum or sums of money paid to him or them shall be effectual in law.

And whereas the well draining, preserving and keeping open the drains of the said meadow land, is of great importance to the said owners:

[Section XVII.] Be it enacted by the authority aforesaid, That all and every of the said owners shall be allowed, permitted and suffered to discharge all or any of the waters off their respective lands through their natural channels or by a direct course across the land of any other of the said owners as shall, by the managers for the time being, or the major part of them, be judged convenient into the main channel, creek or sluice best suiting to discharge the same into the river, and shall be allowed to open, scour and cleanse the same when and as often as they and the said managers shall think convenient or necessary, any law, usage or custom to the contrary in any wise notwithstanding.

Provided always, That such owner so requiring a passage for his water shall first pay all the damages sustained, or that shall be sustained by such neighbor through whose land the water is to be discharged, and also all such damages as shall be done to the banks within his said neighbor's allotment in such manner and proportion as shall be settled by a majority of said managers.

[Section XVIII.] And be it enacted by the authority aforesaid, That if any person or persons shall wickedly or maliciously cut through and break down or endamage any of the said banks, dams, sluices or flood-gates, either their own or others, or shall let in any creek or water to annoy, injure or overflow any of their neighbors' lands, and shall thereof be convicted before the justices of the court of quarter sessions of the said county of Philadelphia, in all such cases the persons so offending shall be fined treble the value of all the damages to be assessed by two or more indifferent persons to be appointed by the said court to value the same, which fine shall be added to the common stock for the general use and benefit of the said company.

Passed September 26, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See appondix XXIV, Section II, and the Acts of Assembly passed February 15, 1765, Chapter 523; April 15, 1782, Chapter 980; April 4, 1831, P. L. 496; March 13, P. L. 85.

At a General Assembly begun and holden at Philadelphia the fourteenth day of October, A. D. 1761, and continued by adjournments unto the fourteenth day of May, 1762, the following acts were passed:

## CHAPTER CCCCLXXIII.

AN ACT TO ENABLE THE OWNERS AND OCCUPIERS OF THE WICACO MEADOWS, IN THE COUNTY OF PHILADELPHIA, TO KEEP THE BANKS, DAMS, SLUICES AND FLOOD-GATES IN REPAIR AND TO RAISE A FUND TO DEFRAY THE EXPENSE THEREOF.

Whereas there is a certain parcel of meadow land and marsh situate in the township of Moyamensing, in the county aforesaid, beginning at a dam crossing of Hollander's Creek, at Moyamensing Landing, thence down the said creek [to Hay Creek, thence along the said Hay Creek] to Delaware River, thence up the same to a line dividing the lands of Joseph Johnson from Joseph Wharton, thence along the said line to the fast land, thence along the several courses of the fast land to the place of beginning, herein named and called The Wicaco Meadows, which, for a considerable time past have been embanked, but of late have been greatly impaired and out of order for want of proper management and regulations:

[Section I.] Therefore be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That Jeremiah Elfreth, Stephen Paschall, Hugh Roberts, Andrew Bankson, William Jones, George Gray, David

Gibson and Jonathan Paschall are hereby nominated and appointed, authorized and empowered, within two months after publication of this act, to inspect into and examine the present condition of all the principal or outside banks and dams which surround or include the aforesaid piece of meadow ground, as also into the condition of the several outside sluices or floodgates thereto belonging, and if it shall appear to them, or a majority of them, that any of the aforesaid banks or dams are not two feet six inches broad at top and do not widen at least sixteen inches in every four feet perpendicular descent and are not at least nine inches higher than the highest tide hitherto known at those banks, or if any of the sluices or flood-gates lying on the river or either of the before-mentioned creeks are not sufficient for keeping out or letting out any water which may be brought thereto by the tides or drains, they are hereby empowered and required to certify, in writing, under the hands of a majority of them, as soon as conveniently may be done what owner or owners' banks or dams are defective or fall short of the dimensions hereby required, . or whose banks ought to be brought higher into their meadows and made entirely new for the better security against floods, and at what places it may be necessary, by reason of the bleakness of situation or badness of materials to defend any bank with stone walls or other durable materials, or what sluices or flood-gates should be laid lower or removed into more convenient places, made wider or longer, or what other renewals or amendments are requisite to either banks, dams, sluices or flood-gates for the security and accommodation of all parties concerned, in the same writing, ordering and directing at whose expense all or each of the aforesaid new banks, (if any be needful) the repairs, enlargement, or any other amendments either in banks, dams, sluices or flood-gates shall or ought in strict justice and equity to be made and done, which judgment or determination of a majority of the eight persons hereinbefore mentioned and appointed shall be binding and conclusive upon all parties therein required to make the renewals or repairs and amendments, and to pay and discharge the several and respective parts of the expenses necessarily accruing thereby, agreeable to the directions and allotments contained in the writing aforesaid.

[Section II.] And be it enacted by the authority aforesaid, That the managers to be chosen for the ensuing year are hereby strictly enjoined and required to see that every part of the determinations aforesaid be fully and punctually complied with by the persons severally and respectively required, and in case of any neglect or refusal they, the said managers, are hereby required to hire and employ a suitable number of persons to make new, repair, amend or wall with stone any bank, dam, sluice or flood-gate directed by the commissioners hereinbefore mentioned, the managers settling the amount of the costs thereof and proportioning the same to every owner or occupier agreeable to the direction of the commissioners hereinbefore appointed, and in case of refusal or delay of payment to proceed against the delinquent party according to the method hereinafter directed for non-payment of the annual assessment or quota money.

[Section III.] And be it enacted by the authority aforesaid, That [after] the aforesaid renewals and repairs have been made agreeable to the direction of the commissioners aforesaid and to the satisfaction of the managers, that all costs and charges of making, amending and maintaining the outside banks, dams, sluices and flood-gates or any other necessary expense that is for a common benefit hereafter to be made shall be done by the direction of the managers for the time being and paid for out of the company's stock by an order of the managers on the company's treasurer.

[Section IV.] And be it enacted by the authority aforesaid, That it shall and may be lawful for the owners and occupiers of the said Wicaco Meadows, or as many of them as shall think fit, to meet together on the first Monday in March yearly and every year at the court-house in Philadelphia or such other convenient place as shall hereafter be appointed by the managers to be chosen by virtue of this act, and then and there, by a majority of those met, shall choose by ballot five fit persons, owners or occupiers of the said meadows, to be managers, and one fit person to be treasurer for the said Wicaco Company for the year then next ensuing.

[Section V.] And be it further enacted by the authority aforesaid, That if any of the owners or possessors elected managers as aforesaid, on due notice given in writing of his election by some of the company present at the said election, shall refuse or afterwards neglect to do the duty required of him or them by this act, he or they so refusing or neglecting his duty shall forfeit and pay to the treasurer for the time being the sum of forty shillings, to be added to the common stock of the said company, unless he shall have served two years successively in the said office next before his said appointment, which fine shall be recovered in the manner hereinafter directed for the recovery of other money payable to the treasurer of the said company and the other managers shall proceed in the execution of their office without him or them, or if they think fit, may choose others of the said owners or possessors to be manager or managers in the place of him or them so refusing or neglecting; and if the person so elected treasurer shall refuse or neglect to take upon him the duties or give the securities required by this act, or shall misbehave himself, or by death or otherwise be rendered incapable to execute the said office, in any of these cases the managers for the time being shall choose another fit person (not a manager) to be the treasurer for that year.

[Section VI.] And be it enacted by the authority aforesaid, That every treasurer hereafter to be chosen shall, before he takes upon him the execution of his office, enter into an obligation with at least one sufficient security in double the value of the money that doth or may probably come into his hands during the continuance of his office as near as can be estimated by the managers, conditioned that he will once in every three months or oftener if required render his accounts to the said managers and well and truly account, adjust and settle with them when required for and concerning all moneys that are or shall come to his hands by virtue of this act or that belong to the said company, and shall well and truly pay the balance that shall appear on such settlement to be in his hands to such persons and to such services as any three of the managers for the time being shall order and appoint and not otherwise, and that he will, at the expiration of his office well and truly pay, or cause to be paid and delivered, all the moneys then remaining in his hands, together with the books of accounts concerning the same and all other papers and writings in his keeping belonging to the said company [unto his successor in the said office, and that he will do and execute all other matters and things as treasurer to the said company] according to the true sense and meaning of this act.

[Section VII.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said managers to meet together as often as they shall see occasion to direct the necessary repairs and to lay such assessments and taxes on every acre of [the said] land belonging to the said company as they shall judge to be necessary for the benefit and security of the same. And the said managers, or a majority of them, for the time being are hereby empowered, authorized and required to enter upon and inspect, at least six times in each year, the condition of all the said banks, dams, sluices, flood-gates and other conveniences necessary for stopping out the tides and draining the water from the said meadows after the first repairs have been made as hereinbefore directed, and if any part shall appear not sufficiently secure, as being more liable by situation, nature of the soil or other circumstances to be washed away or destroyed than other parts, they, the said managers, shall consider and determine by what method such part or parts may be made good and secure, whether by stone or other firm and durable materials, and on such inspection and determination the said managers shall give notice to and require the owners or possessors of meadows adjoining such defective banks or their guardians (if minors) and within the county of Philadelphia, forthwith to amend their and each of their parts of the banks adjoining their respective meadows in such manner as the said managers shall direct, and the expense and costs of such additions or amendments shall not be put on the person to whom such meadow grounds do belong, but shall be allowed to him and paid out of the common stock, he paying or defraying his proportionable share and part thereof agreeable to the direction of this act.

[Section VIII.] And be it further enacted by the authority

aforesaid, That if any owners or occupiers of the said meadows and lands or any guardian of a minor owner thereof so warned by the said managers shall at any time refuse or neglect immediately after such warning to amend and repair their respective parts agreeable to the direction of the said managers, or if any of the said owners or guardians are not known or readily to be found within the said county at the time aforesaid, that then and as often as it shall so happen it shall and may be lawful to and for the said managers, or any of them, together with such workmen, horses, carts, barrows and other tools as they shall think necessary, to enter into and upon the lands of him, her or them where such breach or defect now is, or shall hereafter happen to be, and then and there to dig and carry earth from the nearest or most convenient place or purchase suitable materials to make, amend and repair the said banks, dams, sluices [and] flood-gates and all conveniencies necessary for stopping out the tide or for draining the waters off the said meadows in such manner and by such ways and means as they, the said managers, shall think fit and reasonable, any law of this province, usage or custom to the contrary in any wise notwithstanding.

And in order to establish a fund to defray sundry contingent and yearly expenses and to prevent any delay hereafter for want of money in case of inundations or extraordinary accidents:

[Section IX.] Be it enacted by the authority aforesaid, That every owner or possessor of meadow land in the aforesaid tract shall, on or before the third Monday in March next after publication hereof, pay or cause to be paid or deposited into the hands of the treasurer aforesaid the sum of four shillings, current money of Pennsylvania, for each and every acre they respectively have, hold, occupy or possess in the said meadow grounds, exclusive of flats, creeks or waste lands. And all and every person or persons, whether owners or renters, who shall, on the first Monday in March, every year hereafter be owners, occupiers or possessors of any of the meadow grounds aforesaid shall, in like manner, pay or deposit or cause to be paid or deposited into the hands of the treasurer for the time being such sum or sums of money as the managers for the time being shall find necessary to assess and order, which sum, if paid by a renter

of any of the said meadow grounds [he] shall and is hereby empowered to deduct the same out of his rent unless he [is] under contract to the contrary with the owner.

So always and provided, That the sum of one hundred pounds shall, in the beginning of every year, be in the treasurer's hands, ready to be applied in the premises, as occasion may require, of all which sums of money and all other money coming to his hands by virtue of this act and of all disbursements and payments thereof from time to time made, the said treasurer shall, in books to be provided for that purpose, keep a just and true account and shall pay and deliver the same according to the directions and orders of the managers for the time being, or any three of them, and not otherwise.

[Section X.] And be it enacted by the authority aforesaid, That the managers for the time being shall, before the day hereinbefore appointed for the payment of the yearly quotas, deposit money or assessment, cause a true list of the names of all and every of the said owners or possessors with a true account of all and every acre of meadow ground as aforesaid within the limits aforesaid, which they respectively have, hold, occupy and possess, exclusive of flats, creeks and waste land, according to the best information they can obtain, noting from time to time the several changes, alterations, transfers and alienations of right in the several parts and parcels thereof as they shall come to their knowledge, and shall furnish the treasurer with a true copy thereof, together with the sum per acre of the general assessment for the current year, when any alteration shall be made of the aforesaid deposit of four shillings per acre, according to which list or account the treasurer for the time being shall receive and take the several sums of their and each of their deposit money and assessment respectively in every year raised or assessed by this act, and shall cause notice of the said rate or assessment per acre to be yearly or oftener inserted in some public gazette or other newspaper at least ten days before the day of payment in every year hereafter.

And in case any of the said owners, occupiers or possessors aforesaid shall refuse or neglect to pay or cause to be paid to the treasurer aforesaid on the days and times aforesaid the several sums of money which they respectively ought to pay or deposit according to the true intent and meaning of this act, they and each of them so neglecting and refusing shall forfeit and pay to the said treasurer the additional sum of two pence for every shilling unpaid which they respectively ought to have paid by the direction of this act, and afterwards shall, for every three months' neglect or refusal in like manner forfeit and pay to the treasurer for the time being the like sum of two pence for every shilling which he, she or they failed of paying on the day or time appointed when they respectively ought to have paid by the direction of this act.

[Section XI.] And be it further enacted by the authority aforesaid, That if any of the said owners, possessors or occupiers shall neglect or refuse as aforesaid to pay the several sums of money, together with the forfeitures arising thereon which they respectively ought to pay at any time or times hereafter for the space of twelve months after any of the days or times in which it ought to be paid, or shall have neglected or refused to reimburse the treasurer for the time being for any necessary expense agreeable to the directions of this act, that then and so often it shall and may be lawful to and for the said treasurer, by direction of the said managers, or any three of them, in his own name to sue all and every such person or persons so refusing or neglecting for the respective sum or sums of money which he, she or they ought to have paid by virtue hereof by action of debt, if five pounds or under, before any justice of the peace of the county, or if above five pounds in any court of record where the same may be cognizable, and give this act and the said assessment or the said account, as the case may require, in evidence, and the said justices of the peace and the said court are hereby empowered and directed to give judgment and grant execution for the same with costs of suit accordingly, to be levied on the said meadow grounds belonging as aforesaid to such owners or occupiers so neglecting or refusing, and delivered unto the managers for the time being, who, or any three of them, are hereby empowered and authorized to let out on rent any part of the said meadow grounds belonging to any of the said owners who shall so neglect or refuse or who shall not be found in the county as aforesaid from year to year for so long time as until the rent or rents arising therefrom shall as nearly as may be computed pay all such sum or sums of money so assessed or so charged, together with all costs and forfeitures arising thereon for his or their neglect or refusal to pay the same as aforesaid and no longer.

Provided always, That in letting out the said meadows and grounds the said managers do publicly notify the leasing thereof and let the same to the highest bidder at private sale or bargain.

[Section XII.] And be it further enacted by the authority aforesaid, That no process, suit or proceedings whatsoever, which at any time hereafter shall be commenced, sued or brought before any of the justices of the peace or judges or justices of the common pleas or Supreme Court or before any magistrate of this province in the name of any treasurer of the said company by direction of the said managers, or any three of them, shall be discontinued or put without day by reason of the death, disability or removal of such treasurer, but shall be good and effectual in law to all intents and purposes notwithstanding such death, disability or removal.

[Section XIII.] And it is hereby further enacted by the authority aforesaid, That the managers for the time being, or any three of them, shall have the power of disposing of all moneys paid to the treasurer by virtue of this act and of hiring and appointing, at the expense of the said company [any] person or persons from time to time to inspect the condition of all the banks, dams, sluices and flood-gates belonging to the owners of the said meadow grounds who shall inform the respective owners and the said managers when any repairs are wanting, and the said managers, or any three of them, shall have power to displace such person or persons and appoint others as often as they shall think fit, and have power to offer and pay such rewards as they think necessary out of the common stock for the destruction of such vermin as usually damage the said banks and dams as well as for [other] general services of the said company.

[Section XIV.] And be it further enacted by the authority aforesaid, That the said managers for the time being, or any three of them, are hereby authorized and empowered, in behalf of the said owners, to settle accounts with the treasurer from

time to time, and shall do and execute all other matters and things pertaining to the general good and benefit of the said owners.

Provided, nevertheless, That if any owner or owners shall think him, her or themselves aggrieved by any order, account or proceeding of the said managers, such owner or owners shall, if he or they think proper, choose two fit and disinterested persons, and the said managers, or a majority of them, shall choose two other fit and disinterested persons [which said referees, if occasion require, shall choose one other indifferent person,] who, or any three of them, shall finally settle the same and all other matters and things in dispute that shall be referred to them by the said parties.

[Section XV.] And be it further enacted by the authority aforesaid, That the orders of any three of the managers on the treasurer for the time being shall be complied with by the said treasurer, and shall be good vouchers to indemnify him for the payment and delivery of the money and effects committed to his care by virtue of this act, and that all bonds, mortgages, deeds and conveyances in trust for the use of the said owners shall be taken in the name of the treasurer of the Wicaco Company and be payable to him and his successors, and shall be mentioned to be for the use of the owners of said meadow lands, and with or without assignment shall be good and available in law to his successor or successors in the said trust for the use of the owners aforesaid, and shall be recoverable in any court of record in this province where the same may be cognizable as fully and effectually to all intents and purposes as if the same were private property and duly assigned in all the forms of law, and the receipts and discharges of such succeeding treasurer or treasurers for any such sum or sums of money paid to him or them shall be effectual in law.

And for the more orderly execution of their duty and trust the said managers are hereby required to meet at least once in two months as aforesaid at some convenient place to confer and conclude concerning the matters of this act committed to them, and shall cause fair minutes of their proceedings to be kept in a book to be provided for that purpose in every of which meetings the resolutions of any three of them shall be entered on their minutes and deemed and taken as the resolutions of the whole, to which minutes and also to the treasurer's accounts all persons concerned shall have free recourse at all seasonable times.

And whereas the well draining, preserving and keeping open the drains of the said meadow grounds is of great importance to the owners:

[Section XVI.] Be it enacted by the authority aforesaid, That all and every of the said owners shall be allowed and permitted to discharge all and any waters off or from their respective grounds through their natural or artificial channels heretofore or already made, each keeping the channels or drains in his own land scoured and cleared at his own particular expense unless there are already contracts amongst any owners to the contrary, and all and every owner shall likewise be permitted and suffered to discharge the said waters by a direct course across the land of any other of the said owners if it shall by the managers for the time being, or a major part of them, be thought necessary or most convenient to the parties concerned for leading the waters into the main channel, creek or sluice best suiting to discharge the same into the aforesaid river or creeks and such owner permitted by the managers to cut a drain or channel through his neighbor's or other owner's meadows shall be allowed and obliged to scour and keep the same clean at his own particular expense when and as often as such person so permitted and the said managers shall think convenient or necessary.

Provided always, That such owner so requiring a passage for his water shall [first] pay all the damages sustained or that shall hereafter be sustained by such neighbor through whose ground the water is to be discharged in such manner and proportion as shall be settled by a majority of the said managers.

[Section XVII.] And be it further enacted by the authority aforesaid, That if any person or persons [shall] wickedly or maliciously cut through and break down or endamage any of the said banks, dams, sluices or flood-gates, either [their] own or others, or shall let in any creek or water to annoy, injure or overflow any of their neighbors' lands and shall thereof be con-

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victed before the justices of the court of quarter sessions of the said county of Philadelphia, in all such cases the persons so offending shall be fined treble the value of all the damages, to be assessed by two or more indifferent persons to be appointed by the said court to value the same, which fine shall be added to the common stock for the general use and benefit of the said company.

Passed February 17, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Acts of Assembly passed February 15, 1765, Chapter 523; February 18, 1769, Chapter 584; March 22, 1784, Chapter 1085; March 29, 1824, P. L. 191; April 12, 1828, P. L. 351; February 6, 1830, P. L. 42; April 13, 1859, P. L. 621.

## CHAPTER CCCCLXXIV.

AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF A CERTAIN TRACT OF MARSH AND MEADOW LAND THEREIN DESCRIBED, SITUATE IN THE COUNTIES OF PHILADELPHIA AND CHESTER, TO KEEP THE BANKS, DAMS, SLUICES AND FLOOD-GATES IN REPAIR AND TO RAISE A FUND TO DEFRAY THE EXPENSE THEREOF.

Whereas there is a certain parcel of marsh and meadow land situate in the township of Kingsessing, in the county of Philadelphia, commonly known by the name of Boon's Island and Carcus Hook Marsh and also other parcels of drained marsh situate in the township of Ridley, in the county of Chester, the whole of which several parcels is contained within the bounds following, to wit: Beginning at the fast land of Peter Elliot to the southward of said Elliot's house, thence down Darby Creek to a new bank lately made by said Elliot, thence by Darby Creek to Grun Creek, thence by the said Grun Creek and Plumb Creek to the river Delaware, thence up the same to Bow Creek and up Bow Creek to Boon's Creek and thence up the said Boon's Creek to the fast land near the houses of John Justice and Andrew Cocks, thence by the fast land to the dam now in use over Kingsessing Creek to Boon's, Knowles', Blakely's and the Province Islands thence crossing by the said dam to the fast land on

the north side of the said creek, thence by the several corners of the said fast land to the place of beginning, which said tract or parcel of marsh and meadow land hath been and now is embanked, but inasmuch as the banks, dams, sluices and floodgates made for the stopping out the tide water from the same and for preventing the overflowings thereof cannot be equitably and sufficiently maintained without a law for regulating the conduct of the owners in mending, repairing, supporting and maintaining the said banks, dams, sluices and flood-gates which surround the same:

[Section I.] Be it therefore enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same. That the said tracts and parcels of meadow lands are hereby divided into two certain divisions following: That is to say, from a certain creek called Bow Creek, including the eastern dam and sluice over Bow Creek and thence to the fast land on Carcus Hook and Boon's Island, shall be henceforth called and named The Northern Division; and from the said Bow Creek, including the western dam and sluice over the said Bow Creek and thence to Plumb Creek shall be henceforth called and named The Southern Division; and that the said owners, occupiers and possessors of meadow land in the Southern Division shall be called and named The Tinicum Company and the owners, occupiers and possessors of the meadow land in the Northern Division shall be called and named The Kingsessing Company; and that Isaac Pearson, John Pahschal and John Smith, gentlemen, or any two of them are hereby nominated, authorized and appointed within three months after the publication of this act to divide the dams, sluices, flood-gates and banks which surround and include all the said tract or piece of marsh and meadow land, into districts, and allot and appoint how many perches of the said banks each owner or possessor of the said tract in their respective districts shall make, repair,

maintain and support in proportion to the number of acres of meadow he holds therein, having an equitable regard to the quality, situation and circumstances of the ground to each owner belonging and banks so to be allotted, all which said allotments and divisions so made and signified by an instrument in writing, under the hands and seals of any two of them and recorded in the office for recording deeds for the county of Philadelphia, shall be the proper shares, parts, proportions and quantities of bank for the several owners or possessors of the said meadows to make, repair and support, at their own proper expense and charge in their respective divisions.

[Section II.] And be it further enacted by the authority aforesaid, That the owners, occupiers and possessors of the said tract of meadow land respectively whose allotments, shares or parts of the bank are in any wise defective shall, within three months from the publication hereof, cause them to be put in good and substantial repair, and make up or cause their respective parts of the banks so as aforesaid allotted to be made up level on the top and sufficiently strong and secure to defend the said meadows from all inundations, for which end the said banks shall always be kept at least nine inches above all tides by each and all of the said owners, possessors or occupiers on their and each of their parts so as aforesaid to them respectively allotted, under the penalty of ten shillings for every perch of bank not made or repaired as aforesaid, to be paid to the said company's treasurers respectively by the persons so neglecting or refusing, to be levied by the managers for the said divisions respectively hereafter to be chosen, if they see cause, and added to the common stock of the respective division.

[Section III.] And be it further enacted by the authority aforesaid, That the costs and charges of making, maintaining and amending the dams, sluices or flood-gates made or hereafter to be made in each district shall be paid by all the owners, occupiers or possessors of the land in the district where the same shall be so made, maintained or repaired according to the number of acres that they and each of them shall hold, possess and occupy, the same to be made, supported and amended in such manner as the managers for the said divisions respectively, or a majority of them, hereafter to be chosen shall direct.

[Section IV.] And be it enacted by the authority aforesaid, That it shall and may be lawful for the said companies respectively, or as many of them as shall think fit, to meet together on the second Monday in May yearly and every year, at the town of Darby or such other convenient place as shall hereafter be appointed by the managers of each respective division, or any two of them, to be chosen by virtue of this act, and then and there by a majority of those met shall choose by ticket in writing three fit persons, owners or possessors of land in each respective division before described, to be managers, and one fit person to be treasurer for the said divisions respectively for the year then next ensuing.

[Section V.] And be it enacted by the authority aforesaid, That if any of the owners or possessors elected managers as aforesaid on due notice given in writing of his election by some of the company present at the said election shall refuse or afterwards neglect to do the duty required of him or them by this act, he or they so refusing or neglecting his duty shall forfeit and pay to the treasurers for the time being of his or their division the sum of forty shillings, to be added to the common stock of the company of said division, unless he or they shall have served two years successively in the said office next before his or their said appointment, which fine shall be recovered in the manner hereinafter directed for the recovery of other money payable to the treasurer of the said divisions respectively and the other managers, or a majority of them, shall proceed in the execution of their office without him or them or, if they think fit, may choose others of the said owners or possessors to be manager or managers in the place of him or them so refusing or neglecting, and if the person so elected treasurer shall refuse or neglect to take upon him the duties or to give the securities required by this act, or shall misbehave himself or by death or otherwise be rendered incapable to execute the said office, in any of these cases the managers for the time being shall choose another fit person to be the treasurer for that year.

[Section VI.] And be it enacted by the authority aforesaid, That every treasurer hereafter to be chosen shall, before he takes upon him the execution of his office, enter into an obliga-

tion with at least one sufficient security in double the value of the money that doth or may probably come into his hands during the continuance of his office, as near as can be estimated by the managers, conditioned that he will, once in every three months or oftener if required, render his accounts to the said managers, or a majority of them, and well and truly account, adjust and settle with them when required for and concerning all moneys that are or shall come to his hands by virtue of this act or that belong to the owners of the land in the said divisions respectively, and shall well and truly pay the balance that shall appear on such settlement to be in his hands to such persons and to such services as any two of the managers for the time being shall order and appoint and not otherwise; and that he will do and execute all other matters and things as treasurer to the said owners respectively according to the true intent and meaning of this act, and that he will, at the expiration of his office, well and truly pay or cause to be paid and delivered all the money then remaining in his hands, together with the books of accounts concerning the same, and all other papers and writings in his keeping belonging to the owners of the said divisions respectively unto his successor in the said office.

[Section VII.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said managers of each respective division or any two of them, as often as they shall see occasion, to meet together and lay such assessments and taxes on every acre of land in the said respective districts as they shall judge to be necessary for the benefit and security of the same.

And the said managers, or any two of them, for the time being in every year are hereby empowered, authorized and required to enter upon and inspect, at least four times in each year, the condition of all the said banks, dams, sluices, flood-gates and other conveniences for stopping out the tide or draining the water from the said meadows in their respective divisions, and if any part shall appear unfinished, damaged, decayed or destroyed, or more liable by its situation, nature of the soil or other circumstance to be washed away or destroyed than other parts, or shall be in any manner insufficient for the purposes

aforesaid, they, the said managers, or a majority of them, shall consider and determine by what methods such part or parts may be made good and secure by stone or other firm and durable materials, and on such inspection and determination the said managers shall give notice to and require the said owners or possessors, or their guardians (if minors) and within the counties of Philadelphia or Chester, forthwith to amend their and each of their parts or allotments in such manner as they shall direct, all of which banks shall be of sufficient breadth and at least nine inches above any tide that hath been known.

[Section VIII.] And be it enacted by the authority aforesaid, That if by any general overflowing of the water hereafter the banks, dams or sluices belonging to owners of any one allotment shall be damaged or destroyed by the force of the water from within which had been admitted by defects in the banks or dams belonging to the owners of other allotments in either of the divisions aforesaid, in all such cases the delinquent owners shall pay all the costs of repairs unless the managers for the time being shall, from any circumstances, consider it as an act of Providence, in which case they may repair it at the general expense of all the owners of the district in which the said damage shall happen and order the treasurer of the respective division to pay the charge thereof.

[Section IX.] And be it enacted by the authority aforesaid, That if any of the said owners or occupiers of the land in the said tract of meadows or any guardian of a minor owner thereof so warned by the said managers, or a majority of them, shall refuse or neglect after such warning to amend and repair their respective parts agreeable to the direction of the said managers, or if any of the said owners or guardians are not known or readily to be found within the said counties at the time aforesaid, that then and as often as it shall so happen it shall and may be lawful to and for the said managers in the respective divisions, or any of them, together with such workmen, horses, carts, barrows and tools as they shall think necessary, to enter into and upon the lands of him, her or them where such breach or defect shall happen to be and then and there to dig, with the least damage to the owner thereof, and carry earth or purchase

suitable materials to make, amend and repair the said banks, dams, sluices, flood-gates and all other conveniences necessary [for stopping out the tide or] for draining the waters off the meadows in such manner and by such ways and means as they shall think fit and reasonable, any law of this province, usage or custom to the contrary in any wise notwithstanding; and they, the said managers, or any two of them, shall adjust and settle the expense thereof with those to whom such parts or shares of the banks so amended and repaired were before allotted as they shall think just and reasonable, and shall also deliver to the said owners, guardians or possessors of the said meadow land on whose allotments such repairs shall be made or to as many of them as shall be found, their respective bills of the charge of repairing the said part of the bank to them before allotted, and shall order payment accordingly; and in case of their or any of their refusal or delay of payment they shall order the treasurer for the division respectively for the time being to advance and pay so much out of the common stock of the said respective division as shall be sufficient to satisfy the said charge until it can be obtained of those who ought to pay the same.

And in order to establish a fund to defray sundry contingent and yearly expenses and to prevent any delay hereafter for want of money in case of inundations or extraordinary accidents:

[Section X.] Be it enacted by the authority aforesaid, That every owner or possessor of land in the aforesaid meadow tract shall, on or before the second Monday in June next after publication hereof, pay or cause to be paid or deposited in the hands of the treasurer of the divisions aforesaid respectively the sum of one shilling current money of Pennsylvania for each and every acre of drained meadow they respectively have, hold, occupy or possess in the said divisions respectively, exclusive of flats, creeks or waste lands; and all and every person or persons, whether owners or renters, who shall, on the second Monday in June in every year hereafter, be owner, occupier or possessor of meadow land in the said respective divisions shall in like manner pay or deposit, or cause to be paid or deposited into the

hands of the treasurer for the time being such sum or sums of money as the managers for the time being shall find necessary to assess and order, which sum, if paid by the aforesaid renter, he, the said renter, shall and is hereby empowered to deduct out of his rent unless he shall be under a contract to the contrary with the owner.

So always and provided, That the sum of thirty pounds shall, in the beginning of every year, be in each of the said treasurer's hands ready to be applied in the premises as occasion may require, of all which sums of money and all other money coming to his hands by virtue of this act and of all disbursements and payments thereof from time to time made, the said treasurer shall, in books to be provided for that purpose, keep a just and true account, and shall pay and deliver the same according to the directions and orders of the managers for each respective division for the time being, or any two of them, and not otherwise.

[Section XI.] And be it further enacted by the authority aforesaid, That the managers for the time being for their respective divisions, or any two of them, shall before the day hereinbefore appointed for the payment of the yearly quotas, deposit money or assessment cause a true list of the names of all and every of the said owners and possessors in their division, with a true account of all and every acre of meadow in the aforesaid division which they respectively have, hold, occupy and possess, exclusive of flats and creeks, according to the best information they can obtain, noting from time to time the several changes, alterations, transfers and alienations of right in the several parts and parcels thereof as they shall come to their knowledge, and shall furnish the treasurer with a true copy thereof, together with the sum per acre of the general assessment for the current year, when any alteration shall be of the aforesaid deposit of one shilling, according to which list or account the treasurer for the time being shall receive and take the several sums of their and each of their deposit money and assessments respectively in every year raised or assessed by this act, and shall cause public notice of the said rate or assessment per acre to be given at least ten days before the day of payment in every year hereafter, and in case any of the said owners, occupiers or possessors aforesaid shall refuse or neglect to pay or cause to be paid to the treasurer aforesaid on the days and times aforesaid the several sums of money which they respectively ought to pay or deposit according to the true intent and meaning of this act, they and each of them so neglecting and refusing shall forfeit and pay to the said treasurer for every three months' neglect or refusal two pence for every shilling which he, she or they failed of paying on the day or time appointed when they respectively ought to have paid the same by the direction of this act.

[SectionXII.] And be it further enacted by the authority aforesaid, That if any of the said owners, possessors or occupiers shall neglect or refuse as aforesaid to pay the several sums of money, together with the forfeitures arising thereon which they respectively ought to pay at any time or times hereafter for the space of three months after any days or times in which it ought to be paid, or shall have neglected or refused to make, amend or repair his or their part or share of the bank so as aforesaid to them allotted, or shall have neglected or refused to reimburse the treasurer for the time being the necessary expense thereof agreeable to the direction of this act, that then and so often it shall and may be lawful to and for the said treasurer, by direction of the managers of the said respective divisions, or any two of them, in his own name to sue all and every such person or persons so refusing or neglecting for the respective sum or sums of money which he, she or they ought to have paid by virtue hereof by action of debt, if five pounds or under, before any justice of the peace of the county, or if above five pounds in any court of record where the same may be cognizable, and give this act and the said assessment or the said account, as the case may require, in evidence, and the said justice of the peace and the said court are hereby empowered and directed to give judgment and to grant execution [for the same, with costs of suit,] accordingly, to be levied on the tract or piece of marsh, meadow or cripple belonging as aforesaid to such owner or owners so neglecting or refusing and delivered unto the managers of the division respectively for the time being, who, or any

two of them, are hereby empowered and authorized to let out on rent any part of the said meadow belonging to any of the said owners who shall so neglect or refuse or who shall not be found in the county as aforesaid from year to year for so long time as until the rent or rents arising therefrom shall, as nearly as may be computed, pay all such sum or sums of money so assessed or so charged, together with all costs and forfeitures arising thereon for his or their neglect or refusal to pay the same as aforesaid, and no longer.

Provided always, That in letting out the said meadow the said managers do publicly notify the leasing thereof and let the same to the highest bidder.

[Section XIII.] And be it enacted by the authority aforesaid, That no process, suit or proceedings whatsoever which at any time hereafter shall be commenced, sued or brought before any of the justices of the peace or judges or justices of the common pleas or Supreme Court or before any magistrate of this province in the name of any treasurer, either of the said company of the Tinnicum or Kingsessing meadows respectively, by direction of the said managers, or any two of them, shall be discontinued or put without day by reason of the death, disability or removal of such treasurer, but shall stand good and effectual in law to all intents and purposes notwithstanding such death, disability or removal.

[Section XIV.] And it is hereby enacted by the authority aforesaid, That the managers for the time being of each respective division, or any two of them, shall have the power of disposing of all moneys paid to the treasurer by virtue of this act and of hiring and appointing at the expense of the said divisions respectively any person or persons from time to time to inspect the condition of all the banks, dams, sluices and flood-gates belonging to the owners of the said meadow land in both of the divisions aforesaid, and to inform the respective owners or the said managers when any repairs are wanting, and may displace such person or persons and appoint others as often as they shall think fit; and the said managers shall have power to offer and pay such rewards as they think necessary out of the common stock for the destruction of such vermin as usually damage the

banks and dams as well as for other general services of the said divisions respectively.

[Section XV.] And be it further enacted by the authority aforesaid. That the said managers for the time being in each division aforesaid, or any two of them, are hereby authorized and empowered in behalf of the said owners to settle accounts with the treasurer for each division respectively from time to time, and shall do and execute all other matters and things pertaining to the general good and benefit of the said owners.

Provided, nevertheless, That if any owner shall think him, her or themselves aggrieved by any order, account or proceeding of any of the said managers of either division such owner or owners shall, if he or they think proper, choose two fit and disinterested persons, and the said managers or any two of them shall choose two other fit and disinterested persons who, if occasion be, shall choose a fifth person alike disinterested, and the persons so chosen, or any three of them, shall finally settle the same and other matters and things [in dispute that shall be] referred to them by the parties.

[Section XVI.] And be it further enacted by the authority aforesaid, That the orders of any two of the managers on the treasurer of the respective divisions for the time being shall be complied with by the said treasurer and shall be good vouchers to indemnify him for the payment and delivery of the money and effects committed to his care by virtue of this act; and that all bonds, mortgages, deeds and conveyances in trust for the use of the said owners shall be taken in the name of the treasurer of the Tinnicum or Kingsessing Company respectively and be payable to him and his successors and shall be mentioned to be for the use of the owners thereof, and with or without assignment shall be good and available in law to his successor or successors in the said trust for the use of the owners as aforesaid, and shall be recoverable in any court of record in this province where the same may be cognizable as fully and effectually to all intents and purposes as if the same were private property and duly assigned in all the forms of law, and the receipts and discharges of such succeeding treasurer or treasurers for any such sum or sums of money paid to him or them shall be effectual in law.

[Section XIX.] And be it further enacted and provided nevertheless, That the dam and bank over the creek called and known by the name of Kingsessing Creek shall be maintained, supported and repaired by the owners, occupiers and possessors of the meadow within the district in which the said dam shall be, and also by the owners, occupiers and possessors of the land known by the several names of The Province, Knowles', Blakely's and Boon's Islands that shall use the same in an equitable and just proportion according to the use they shall respectively make of the said dam as a road for travelling and carriage to and from the said islands, which said proportion of charge and expense shall be made and allotted by the said commissioners hereinbefore appointed for dividing the said described tract of land into districts and by them signified in manner aforesaid; and that it shall and may be lawful to and for the said managers of the Northern Division, or any two of them, as often as the said road, dam or bank shall be out of repair to lay such assessments and taxes on the persons so using the said road according to their respective proportions so settled as aforesaid, and if any of the persons aforesaid hereby directed to contribute to the supporting, maintaining and repairing the said bank or road shall refuse or neglect to pay such assessment, the same being legally demanded of them by the treasurer aforesaid, it shall and may be lawful for the treasurer aforesaid, by the direction of the said managers, or any two of them, in his own name to sue all and every such person or persons so refusing or neglecting for the respective sum or sums of money which he or they ought to have paid by virtue hereof by action of debt, if five pounds or under, before any justice of the peace of the county, if above five pounds in any court of common pleas of the county, and give this act and the said assessment in evidence, and the said justice of the peace and court of common pleas are hereby authorized and empowered to give judgment and grant execution for the same, with costs of suit against the defendant's goods and chattels respectively.

Provided always, nevertheless, That in case any person or persons, owners or possessors of the said islands, shall at any time or times hereafter conceive themselves aggrieved by the allot-

ment of the said commissioners, that it shall and may be lawful to and for the managers of the Kingsessing Company aforesaid, and the said person or persons so aggrieved, to appoint two indifferent men each to settle the matter in dispute, who if they see occasion shall and may choose a fifth person alike indifferent, and that the persons so chosen, or any three of them, shall finally adjust and settle the [matters] and things referred to them by the said parties.

[Section XX.] And be it further provided and enacted by the authority aforesaid, That if a certain John Hunt and William Boon, two of the owners of part of the said meadow ground in the Northern Division, shall stop and dam across the said creek called Mingo or Kingsessing Creek nearer the mouth of the said creek than the dam aforesaid, and shall maintain, support and repair the same thereafter in like good order with other the dams hereby to be supported, that then the said John Hunt and William Boon, their heirs and assigns, shall be and are hereby declared to be freed, exempted and discharged from their respective proportions of charge and expense of the said dam unless they shall use the same as a road to and from their respective lands or habitations, anything herein contained to the contrary notwithstanding.

[Section XXI.] And be it enacted by the authority aforesaid, That if the banks, dams, sluices, flood-gates and other conveniences hereby directed to be made for the purposes aforesaid shall be out of repair in either of the divisions aforesaid, and the managers of such division wherein the said banks, dams, sluices, flood-gates and other conveniences so out of repair as aforesaid may be, shall neglect or refuse, upon notice given thereof by the managers of the other division, or any of them, to make, amend and repair the same according to the directions of this act, that then and in every such case it shall and may be lawful for the managers of the division from whom such notice shall be given to enter into the said division so out of repair and to make, amend and repair the same, and to recover and levy the costs, charges and expenses thereof in the same manner as if they were the managers of and for the division so out of repair,

anything herein contained to the contrary thereof notwithstanding.

Passed February 17, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Acts of Assembly passed March 4, 1763, Chapter 491; (the two acts of) February 15, 1765, Chapters 523, 525; February 18, 1769, Chapter 591; December 15, 1784, Chapter 1120; March 10, 1788, Chapter 1337; March 31, 1795, Chapter 1820; April 15, 1834, P. L. 466; April 22, 1841, P. L. 269; March 31, 1843, P. L. 122; April 3, 1851, P. L. 338; March 17, 1862, P. L. 129.

## CHAPTER CCCCLXXV.

AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF THE SOUTH-ERN DISTRICT OF DARBY MARSH OR MEADOW GROUND, IN THE COUNTY OF CHESTER, TO EMBANK AND DRAIN THE SAME, TO MAKE AND KEEP THE OUTSIDE BANKS AND DAMS IN GOOD REPAIR FOR-EVER, AND TO RAISE A FUND TO DEFRAY THE YEARLY EXPENSES ACCRUING THEREON.

Whereas the improvement of meadow ground is not only useful to the owners and possessors thereof, but great advantage and benefit accrue thereby to the public. And whereas there are two certain islands of marsh and cripple land, one called Hay Island [and] the other known by the name of The Little Island, situate on the west side of Darby Creek, at Calcoon Hook, in the township of Darby, and county of Chester, and also one other piece of meadow ground for the most part drained, lying between Hay Island aforesaid and the shore or fast land, all which premises intended to be embanked and drained are comprehended within the bounds following: That is to say, beginning at the fast land belonging to the heirs of Andrew Boon, junior, deceased, on the west side of a certain run of water called Hem-Sprota; thence along the side thereof to the great thoroughfare dividing Hay Island from the last-mentioned piece of meadow ground then across the said thoroughfare to Hay Island aforesaid; thence up the said thoroughfare by the courses thereof to Darby Creek, thence down the said creek by the several courses thereof to the small thoroughfare dividing

the two islands aforesaid; thence along the side of The Little Island by Darby Creek aforesaid, at or near the lower end of the said small thoroughfare, thence crossing the same, the lower part of Hay Island by Darby Creek and the great thoroughfare to a certain bank on the meadow ground late of Adam Archer, deceased, then along the said bank to the meadow of Charles Grantum, thence along the said Grantum's bank to the shore or fast land at the western point of his said meadow, and from thence northeasterly by the shore or fast land to the place of beginning, named and henceforth to be called The Southern District of Darby Meadows; which two islands aforesaid are for the most part undrained and subject to the overflowing of the tide, the several owners of which propose by banks, dams, sluices and flood-gates near the outside thereof the whole completely to embank and drain, and also [to] include within the said banks the other piece of meadow land lying between the said island and fast land as aforesaid. But forasmuch as such improvements are from their own nature and situation subject to many casualties, and without constant care and expense not only liable to decay, but the defect of one part [is] often destructive and ruinous to many, and amongst a number of owners such frequent disputes [arise] concerning repairs and the means of defraying the necessary expense thereof that oftentimes from little neglects great damages ensue and the heavy charges if many owners may be rendered ineffectual through the default of a few, to prevent which damages and inconveniences and for the security and encouragement of the said owners and undertakers of this improvement they pray that it may be enacted:

[Section I.] And be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all and every the owner or owners, possessor or possessors of the marsh or cripple land lying on the two islands aforesaid, or so many of them as shall think fit, may

meet and assemble on the first Monday in March next, at the house of John Wilkinson, in Darby aforesaid, and then and there, by a majority of those met, shall choose by ticket in writing three fit persons, owners or possessors of land on the said islands or on any one of them, to be managers and one fit person to be treasurer for the year then next ensuing.

And in order speedily and the more effectually to raise money necessary for making the banks, dams, sluices and flood-gates to inclose and drain the two islands aforesaid:

[Section II.] Be it enacted by the authority aforesaid, That the said managers, or any two of them, shall lay a rate or assessment not exceeding one pound ten shillings per acre at one time and so from time to time as they shall see occasion on all and every the owners and possessors of the said marsh or cripple land for what they shall respectively hold and possess on the islands aforesaid or for so much as appears likely to be inclosed within the banks hereafter to be made, which rate or rates from time to time the said owners shall, within ten days after demand made, pay to or deposit in the hands of the said treasurer, there to remain subject to the drafts and orders of the said managers, or any two of them, for the purposes aforesaid. And that the said managers, or any two of them, as soon as may be after a sufficient sum of money shall be paid as aforesaid into the treasury, shall employ a proper number of workmen and laborers to embank all the meadow lands in the said district by erecting, making and laving a sufficient number of banks, dams, sluices and flood-gates [wherever the same] may be necessary for the effectual stopping out the waters from the same.

[Section III.] And be it further enacted by the authority aforesaid, That George Gray, David Gibson, Philip Price, John Smith (of Kingsess) and John Lewis, gentlemen, or any three of them, are hereby nominated, authorized and appointed, within two months after the banks and dams are made as aforesaid to divide the banks which surround and include all that the said tract or piece of marsh and meadow land composed of the two islands and other piece of marsh aforesaid, and allot and appoint how many perches of the said bank each owner or possessor of the said tract shall make, repair, maintain and sup-

port in proportion to the number of acres of meadow he holds therein, having an equitable regard to the quality, situation and circumstances of the ground or part so to be allotted and shall also ascertain and declare the share, part and proportion of money which the owners and possessors of the meadow ground lying between the great thoroughfare aforesaid and the shore or fast land, shall pay towards making the [two] several dams to be made on the great thoroughfare aforesaid, excepting the meadow grounds of Charles Grantum and of the heirs of Adam Archer and Jacob Archer, both deceased, which said meadow is hereby exempted from any charge or expense in the first making the said dams across the said thoroughfare, all which said allotments and divisions so made and signified by an instrument in writing under the hands and seals of any three of them shall be the proper shares, parts, proportions and quantities of bank and dams aforesaid for the said owners or possessors of the said meadow to make, repair and support at their own proper expense and charge.

[Section IV.] And be it further enacted by the authority aforesaid, That the owners, occupiers and possessors of the said tract of meadow land respectively whose allotments, shares or parts of the bank are in any wise defective shall, within three months from the making the said banks and dams, cause them to be put in good and substantial repair, and make up or cause their respective parts of the banks so as aforesaid allotted to be made up level on the top and sufficiently strong and secure to defend the said meadows from all inundations, for which end the said banks shall always be kept at least six inches above all tides by each and all of the said owners, possessors or occuviers on their and each of their parts so as aforesaid to them respectively allotted, under the penalty of ten shillings for every perch out of repair, to be paid to the said company's treasurer by the person so neglecting or refusing, to be levied by the managers of the said district hereafter to be chosen, if they see cause, and added to the common stock.

[Section V.] And be it further enacted by the authority aforesaid, That the costs and charges of making, maintaining and amending the dams, sluices or flood-gates made or hereafter to

be made shall be paid by all the owners, occupiers or possessors of the land in the said district according to the number of acres that they and each of them shall hold, possess and occupy, the same to be made, supported and amended in such manner as the managers for the said district, or any two of them, hereafter to be chosen shall direct.

[Section VI.] And be it enacted by the authority aforesaid, That it shall and may be lawful for the owners of the said southern district of Darby meadow, or as many of them as shall think fit, to meet together on the first Monday in March yearly and every year at the school-house in Darby, or such other convenient place as shall hereafter be appointed by the managers to be chosen by virtue of this act, and then and there, by a majority of those met [shall] choose by ticket in writing three fit persons, owners or possessors of land in the said district, to be managers and one fit person to be treasurer for the said Southern District Company for the year then next ensuing.

[Section VII.] And be it enacted by the authority aforesaid, That if any of the owners or possessors elected managers as aforesaid on due notice given in writing of his election by some of the company present at the said election, shall refuse or afterwards neglect to do the duty required of him or them by this act, he or they so refusing or neglecting his duty shall forfeit and pay to the treasurer for the time being the sum of forty shillings, to be added to the common stock of the district, unless he shall have served two years successively in the said office, which fine shall be recovered in the manner hereinafter directed for the recovery of other money payable to the treasurer of the said district, and the other manager or managers shall proceed in the execution of his or their office without him or them, or, if he or they think fit, may choose other or others of the said owners or possessors to be manager or managers in the place of him or them so refusing or neglecting. And if the person so elected treasurer shall refuse or neglect to take upon him the duties or to give the securities required by this act, or shall misbehave himself or by death or otherwise be rendered incapable to execute the said office, in any of these cases the managers for the time being shall choose another fit person (not a manager) to be the treasurer for that year.

[Section VIII.] And be it enacted by the authority aforesaid, That every treasurer hereafter to be chosen shall, before he takes upon him the execution of his office, enter into an obligation, with at least one sufficient surety, in double the value of the money that doth or may probably come into his hands during the continuance of his office, as near as can be estimated by the managers, conditioned that he will, once in every three months or oftener if required, render his accounts to the said managers, and well and truly account, adjust and settle with them when required for and concerning all moneys that are or shall come to his hands by virtue of this act or that belong to the owners of the land in the said district, and shall well and truly pay the balance that shall appear on such settlement to be in his hands to such persons and to such services as any two of the managers for the time being shall order and appoint, and not otherwise; and that he will at the expiration of his office well and truly pay or cause to be paid and delivered all the money then remaining in his hands, together with the books of accounts concerning the same and all other papers and writings in his keeping belonging to the owners of the lands of the said southern district of Darby Meadow unto his successor in the said office, and that he will do and execute all other matters and things as treasurer to the said owners according to the true sense and meaning of this act.

[Section IX.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said managers as often as they shall see occasion, to meet together and lay such assessments and taxes on every acre of land in the said district as they shall judge to be necessary for the benefit and security of the same.

And the said managers, or any two of them, for the time being in every year are hereby empowered, authorized and required to enter upon and inspect, at least four times in each year, the condition of all the said banks, dams, sluices, flood-gates and other conveniences necessary for stopping out the tides or draining the water from the said meadows, and if any part shall appear unfinished, damaged, decayed or destroyed, or more liable by its situation, nature of the soil or other circumstances to

be washed away or destroyed than other parts or shall be in any manner insufficient for the purposes aforesaid, they, the said managers shall consider and determine by what methods such part or parts may be made good and secure by stone or other firm and durable materials, and on such inspection and determination the said managers shall give notice to and require the said owners or possessors or their guardians (if minors) and within the county of Chester forthwith to amend their and each of their parts or allotments in such manner as they shall direct, all of which banks shall be of sufficient breadth and at least six inches above any tide that hath been known; and if such extraordinary work shall be directed by the managers to be done for the mending and supporting of any such parts of the banks as are or have been allotted as aforesaid so to be made, mended or supported by any of the particular owners or possessors, then the expense and costs of such extraordinary work shall not be put on the person to whom that allotment was made, but shall be allowed to him and paid out of the common stock, he contributing his proportionable share and part thereto.

[Section X.] And be it enacted by the authority aforesaid, That if by any general overflowing of the water hereafter the banks, dams or sluices belonging to owners of any one allotment shall be damaged or destroyed by the force of the water from within which had been admitted by defects in the banks or dams belonging to the owners of other allotments, in all such cases the delinquent owners shall pay all the costs of repairs, unless the managers for the time being shall from any circumstances consider it as an act of Providence, in which case they may repair it at the general expense of all the owners of the said southern district and order the treasurer to pay the charge thereof.

[Section XI.] And be it enacted by the authority aforesaid, That if any of the said owners or occupiers of the land in the said district or any guardian of a minor owner thereof so warned by the said managers shall refuse or neglect after such warning to amend and repair their respective parts agreeable to the direction of the said managers, or if any of the said owners or guardians are not known or readily to be found within the said county at the time aforesaid, that then and as often as it shall so

happen it shall and may be lawful to and for the said managers, or any two of them, together with such workmen, horses, carts, barrows and tools as they shall think necessary, to enter into and upon the lands of him, her or them where such breach or defect shall happen to be, and then and there to dig and carry earth or purchase suitable materials to make, amend and repair the said banks, dams, sluices, flood-gates and all other conveniences necessary [for] stopping out the tide or for draining the waters off the meadows in such manner and by such ways and means as they shall think fit and reasonable, any law of this province, usage or custom to the contrary in any wise notwithstanding. And [they] the said managers, or any two of them, shall adjust and settle the expense thereof with those to whom such parts or shares of the banks so amended or repaired were before allotted as they shall think just and reasonable, except, as is before mentioned, in case of any extraordinary expense arising from its situation, nature of the soil or other circumstances, in all which cases the extraordinary charge beyond what other allotments are subject to shall be paid out of the common stock, and shall also deliver to the said owners, guardians or possessors of the said meadow land on whose allotments such repairs shall be made or to as many of them as shall be found their respective bills of the charge of repairing the said part of the bank to them before allotted and shall order payment accordingly; and in case of their or any of their refusal or delay of payment they shall order the treasurer for the time being to advance and pay so much out of the public stock, as shall be sufficient to satisfy the said charge until it can be obtained of those who ought to pay the same.

And in order to establish a fund to defray sundry contingent and yearly expenses, and to prevent any delay hereafter for want of money in case of inundations or extraordinary accidents:

[Section XII.] Be it enacted by the authority aforesaid, That every owner or possessor of land in the aforesaid meadow tract shall, on or before the second Monday in June next after the banks, dams and sluices are made as aforesaid, pay or cause to be paid or deposited in the hands of the treasurer aforesaid

the sum of two shillings, current money of Pennsylvania, for each and every acre they respectively have, hold, occupy or possess in the said district, exclusive of flats, creeks or waste lands. And all and every person or persons, whether owners or renters, who shall, on the second Monday in June in every year hereafter be owner, occupier or possessor of meadow land in the said tract shall in like manner pay or deposit, or cause to be paid or deposited into the hands of the treasurer for the time being such sum or sums of money as the managers for the time being, or any two of them, shall find necessary to assess and order; which sum, if paid by the aforesaid renter, he, the said renter, shall and is hereby empowered to deduct out of his rent.

So always and provided, That the sum of twenty-five pounds shall in the beginning of every year be in the treasurer's hands ready to be applied in the premises as occasion may require; of all which sums of money and all other money coming to his hands by virtue of this act and of all disbursements and payments thereof from time to time made the said treasurer shall, in books to be provided for that purpose, keep a just and true account, and shall pay and deliver the same according to the directions and orders of the managers for the time being, or any two of them, and not otherwise.

[Section XIII.] And be it further enacted by the authority aforesaid, That the managers for the time being or any two of them shall, before the day hereinbefore appointed for the payment of the yearly quotas, deposit money or assessment, cause a true list of the names of all and every of the said owners or possessors, with a true account of all and every acre of meadow in the aforesaid tract which they respectively [have], hold, occupy and possess, exclusive of flats and creeks, according to the best information [they] can obtain, noting from time to time the several changes, alterations, transfers, and alienations of right in the several parts and parcels thereof as they shall come to their knowledge, and shall furnish the treasurer with a true copy thereof, together with the sum per acre of the general assessment for the current year when any alteration shall be of the aforesaid deposit of two shillings, according to which list or account the treasurer for the time being shall receive and

take the several sums of their and each of their deposit money and assessment respectively in every year raised or assessed by this act, and shall cause public notice of the said rate or assessment per acre to be given at least ten days before the day of payment in every year hereafter. And in case any of the said owners, occupiers or possessors aforesaid shall refuse or neglect to pay or cause to be paid to the treasurer aforesaid on the days and times aforesaid the several sums of money which they respectively ought to pay or deposit according to the true intent and meaning of this act, they and each of them so neglecting and refusing shall forfeit and pay to the said treasurer the additional sum of two pence for every shilling unpaid which they respectively ought to have paid by the direction of this act, and afterwards shall for every three months' neglect or refusal in like manner forfeit and pay to the treasurer for the time being the [like] sum of two pence for every shilling which he, she or they failed of paying on the day or time appointed when they respectively ought to pay by the direction of this act.

[Section XIV.] And be it further enacted by the authority aforesaid. That if any of the said owners, possessors or occupiers shall neglect or refuse as aforesaid to pay the several sums of money hereinbefore directed to be raised and paid, together with the forfeitures arising and hereby imposed, which they respectively ought to pay at any time or times hereafter for the space of three months after any of the days or times in which it ought to be paid, or shall have neglected or refused to make, amend or repair his, her or their part or share of the bank so as aforesaid to them allotted, or shall have neglected or refused to reimburse the treasurer for the time being the necessary expense thereof, agreeable to the direction of this act, that then and so often it shall and may be lawful to and for the said treas-Quer by direction of the said managers or any two of them in his Own name to sue all and every such person or persons so refusing Or neglecting, for the respective sum or sums of money which he, she or they ought to have paid by virtue hereof by action of debt, if five pounds or under, before any justice of the peace of the county, or if above five pounds in any court of record where the same may be cognizable, and give this act and the said assessment or the said account, as the case may require, in evidence; and the said justice of the peace and the said court are hereby empowered and directed to give judgment and grant execution for the same, with costs of suit accordingly, to be levied on the tract or piece of marsh, meadow or cripple belonging as aforesaid to such owner or owners so neglecting or refusing, and delivered unto the managers for the time being, who, or any two of them, are hereby empowered and authorized to let out on rent any part of the said meadow belonging to any of the said owners who shall so neglect or refuse or who shall not be found in the county as aforesaid from year to year for so long time as until the rent or rents arising therefrom shall, as nearly as may be computed, pay all such sum or sums of money so assessed or so charged, together with all costs and forfeitures arising thereon for his or their neglect or refusal to pay the same as aforesaid, and no longer.

Provided always, That in letting out the said meadow the said managers do publicly notify the leasing thereof and let the same to the highest bidder at private sale or bargain.

[Section XV.] And be it enacted by the authority aforesaid, That no process, suit or proceedings whatsoever which at any time hereafter shall be commenced, sued or brought before any of the justices of the peace or judges or justices of the common pleas or Supreme Court or before any magistrate of this province in the name of any treasurer of the said company of the Southern District of Darby Meadow by direction of the said managers, or any two of them, shall be discontinued or put without day by reason of the death, disability or removal of such treasurer, but shall stand good and effectual in law to all intents and purposes notwithstanding such death, disability or removal.

[Section XVI.] And it is hereby enacted by the authority aforesaid, That the managers for the time being, or any two of them, shall have the power of disposing of all moneys paid to the treasurer by virtue of this act, and of hiring and appointing at the expense of the said company any person or persons from time to time to inspect the condition of all the banks, dams, sluices or flood-gates belonging to the owners of the said meadow

land and to inform the respective owners or the said managers when any repairs are wanting and may displace such person or persons and appoint others as often as they shall think fit; and the said managers shall have power to offer and pay such rewards as they think necessary out of the common stock for the destruction of such vermin as usually damage the said banks and dams, as well as for other general services of the said district.

[Section XVII.] And be it further enacted by the authority aforesaid, That the said managers for the time being, or any two of them, are hereby authorized and empowered, in behalf of the said owners to settle accounts with the treasurer from time to time and shall do and execute all other matters and things pertaining to the general good and benefit of the said owners.

Provided, nevertheless, That if any owner or owners shall think him, her or themselves aggrieved by any order, account or proceeding of the said managers, such owner or owners shall, if he or they think proper, choose two fit and disinterested persons, and the said managers, or two of them, shall choose two other fit and disinterested persons, who (or any three of them) shall finally settle the same and all other matters and things in dispute that shall be referred to them by the said parties.

[Section XVIII.] And be it further enacted by the authority aforesaid, That the orders of any two of the managers on the treasurer for the time being shall be complied with by the said treasurer and shall be good vouchers to indemnify him for the payment and delivery of the money and effects committed to his care by virtue of this act, and that all bonds, mortgages, deeds and conveyances in trust for the use of the said owners shall be taken in the name of the treasurer of the Southern District of Darby Meadow and be payable to him and his successors and shall be mentioned to be for the use of the owners thereof, and with or without assignment shall be good and available in law to his successor or successors in the said trust for the use of the owners as aforesaid, and shall be recoverable in any court of record in this province where the same may be cognizable as fully and effectually to all intents and purposes as if the

same were private property and duly assigned in all the forms of law, and the receipts and discharges of such succeeding treasurer or treasurers for any such sum or sums of money paid to him or them shall be effectual in law.

And whereas the well draining, preserving and keeping open the drains of the said meadow land is of great importance to the said owners:

[Nection XIX.] Be it enacted by the authority aforesaid, That all and every of the said owners shall be allowed, permitted and suffered to discharge all or any of the waters off their respective lands through their natural channels or by a direct course across the land of any other of the said owners as shall by the managers for the time being, or the major part of them, be judged convenient into the main channel, creek or sluice best suiting to discharge the same into the main creek, and shall be allowed to open, scour and cleanse the same when and as often as they or the said managers shall think convenient or necessary, any law, usage or custom to the contrary in any wise not-withstanding.

Provided always, That such owner so requiring a passage for water shall first pay all the damages sustained or that shall be sustained by such neighbor through whose land the water is to be discharged, and also all such damages as shall be done to the banks within his said neighbor's allotment in such manner and proportion as shall be settled by a majority of said managers.

[Section XX.] And be it enacted by the authority aforesaid, That the owner and owners of the said meadow ground late of Jacob Archer, deceased, and their heirs and assigns shall at all convenient times hereafter have the free liberty of a road or passage from the said meadow by the side of the great thoroughfare aforesaid to the lower dam hereafter to be made thereon for the conveniency of taking and carrying their hay to the said dam in order to be transported from thence by water, the same to be done with as little injury as may be, anything in this act to the contrary notwithstanding.

[Section XXI.] And be it enacted by the authority aforesaid, That if any person or persons shall wickedly and maliciously cut through and break down or endamage any of the said banks, dams, sluices or flood-gates either their own or others', or shall let in any creek or water to annoy, injure or overflow any of their neighbors' lands, and shall thereof be convicted before the justices of the court of quarter sessions of the said county of Chester, in all such cases the persons so offending shall be fined treble the value of all the damages, to be assessed by two or more indifferent persons to be appointed by the said court to value the same, which fine shall be added to the common stock for the general use and benefit of the said district.

Passed February 17, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Acts of Assembly passed March 4, 1763, Chapter 492; February 15, 1765, Chapter 523; March 4, 1797, Chapter 1922; February 26, 1800, Chapter 2108.

# CHAPTER CCCCLXXVI.

AN ACT FOR THE RECOVERY OF THE DUTIES OF TONNAGE UPON SHIPS AND VESSELS AND CERTAIN OTHER DUTIES UPON WINE, RUM, BRANDY AND OTHER SPIRITS AND UPON SUGAR WHICH BECAME DUE BY VIRTUE OF A LAW OF THIS PROVINCE LATELY EXPIRED, AND WHICH WERE NOT RECEIVED OR SECURED DURING THE CONTINUANCE THEREOF, AND FOR APPROPRIATING THE SURPLUS OF THE SAID DUTIES.

Whereas by an act of General Assembly of this province passed in the thirty-first year of his late Majesty, George the Second, entitled "An act for granting to His Majesty a duty of tonnage upon ships and vessels and also certain duties upon wine, rum, brandy and other spirits and a duty upon sugar for supporting and maintaining the provincial ship-of-war for protecting the trade of this province and other purposes for His Majesty's service," certain duties of tonnage upon ships and vessels and upon rum, wine, brandy and other spirits and upon sugar were thereby granted to His Majesty for the purposes and uses therein mentioned; but inasmuch as Richard Pearne, now

<sup>&</sup>lt;sup>1</sup> Passed April 29, 1758, Chapter 432.

deceased, the late officer appointed in and by the said act to collect and secure the said duties, did, in his lifetime, neglect to take bonds for and to secure and recover a considerable part of the same, which became due and payable during the continuance of his office according to the directions of the said act, and the person and persons from whom the said duties not already collected are respectively due, neglect or refuse to pay the same, to the officer lately appointed for that purpose, a remedy is wanting to authorize and enforce the collecting, recovery and payment thereof. And whereas by one other act of general assembly of this province, entitled "A supplement to the act, entitled 'An act for granting to His Majesty a duty of tonnage upon ships and vessels and also certain duties upon wine, rum, brandy and other spirits and a duty upon sugar for supporting and maintaining the provincial ship of war for protecting the trade of this province and other purposes for His Majesty's service," 1 the commissioners therein named were authorized and empowered, with the approbation of the governor for the time being, to sell and dispose of the ship of war therein mentioned and to invest the produce thereof, with such other moneys as should come to their hands by virtue of the act hereinbeforerecited, in another ship of war for protecting the trade of this province, and to borrow the sum of money therein specified and to pay off the same out of the moneys arising from the duties aforesaid as soon as a sufficient sum of the said moneys should come to their hands:

And whereas by one other act passed in the first year of his present Majesty, George the Third, entitled "An act to enable Thomas Yorke, James Child, Daniel Rundle, Peter Chevalier, junior, and Enoch Story, or any three of them to sell the provincial ship of war," it is, among other things, enacted that after the payment of all the debts and charges intended to be paid and defrayed by the acts hereinbefore recited the surplus, if any, should be applied towards building a pier or piers in the river Delaware for the greater security of the navigation to and from the city of Philadelphia: Now, to the

<sup>1</sup> Passed April 21, 1759, Chapter 440.

<sup>2</sup> Passed March 14, 1761, Chapter 461.

end and intent that so much of the said duties which remain uncollected may be received and applied to the purposes aforesaid:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That Enoch Story, one of the adminstrators of the said Richard Pearne, deceased, is hereby nominated and appointed collector of the said duties, and is hereby authorized and fully empowered and required, with all convenient speed to ask for, demand, receive, collect and in his own name sue for and recover all and every such sum and sums of money which became due for any of the duties aforesaid in and by virtue and during the continuance of the act hereinbefore first mentioned and as yet remain unpaid in as full and ample a manner as if the said duties had become due to him in his own right, and the same sums of money so collected or recovered to pay over to the provincial treasurer for the time being.

[Section II.] And be it further enacted by the authority aforesaid, That if, after demand made as aforesaid, any person or persons whatsoever from whom such duties became due by virtue of the said first recited act shall refuse or neglect to pay the same to the said Enoch Story, that then it shall and may be lawful and the said Enoch Story is hereby enjoined and required, in his own name, to sue for and recover the said duties so remaining unpaid by an action of debt to be brought for the sum due, If above five pounds in any court of common pleas within this province, if five pounds or under before any justice of the peace, and upon trial to give this act and the books of account of the said Richard Pearne wherein the said duties are respectively charged in evidence in support of the said action; and if it shall appear to the court and jury or to the justice of the peace aforesaid that the sum demanded, or any part thereof, is justly due, then the said court or justice respectively shall give judgment

against the defendant for so much as shall appear [to be] due as aforesaid, and shall award execution for the same as is ranally done in actions of lebt before them respectively triable by the laws of this province; and if no part thereof shall appear to be due as aforesaid, that then the said court or justice respectively shall give informent for the costs against the plaintiff, which costs shall be paid out of the moneys recovered or collected by virtue of this act.

Section III. And be it further enacted by the authority aforesaid. That all the moneys arising in and by virtue of the said several acts hereinbefore recited more than is sufficient to defray the expenses, debts and charges accrued or accruing by virtue of the same acts shall be paid into the hands of the provincial treasurer for the time being and subject to the drafts of Samuel Rhoads, Henry Harrison, Thomas Willing, Esquires, Thomas Wharton, George Bryan, Luke Morris and Peter Reeve, gentlemen, who, or the major part of them or of the survivors of them, with the consent and approbation of the governor or commander in chief of this province for the time being, shall, as wen as conveniently may be, order and appoint the disposition of the same for and towards purchasing a convenient piece or pieces of ground on the river or bay of Delaware, fit for erecting one or more pier or piers thereon for the defense and security of ships and vessels from the dangers of ice, storms and other accidents obstructing the navigation to and from the city of Philadelphia and for and towards building and erecting the said pier or piers thereon in such manner as to them shall appear best for answering the good purposes aforesaid; and the said Samuel Rhoads, Henry Harrison and Thomas Willing, Esquires, Thomas Wharton, George Bryan, Luke Morris and Peter Reeve, gentlemen, or the major part of them or of the survivors of them, shall make report of their proceedings therein from time to time to the assembly of this province, and that the receipt or receipts of the said treasurer to the said Enoch Story shall discharge him of and from so much of the said distress as shall be in such receipts expressed, and the said receipts shall be by the said collector produced to the committees of assembly for the time being to be allowed in the settlement of his ac-

# 1761-62] The Statutes at Large of Pennsylvania.

counts, and the said collector shall have and receive for his trouble in performing the duties hereby enjoined five per centum upon all moneys which he shall receive and pay as aforesaid; and the said provincial treasurer shall have and receive for his trouble the sum of twenty shillings for every hundred pounds by him paid and received; and that the said collector, before he enters upon the execution of his said office, shall take an oath and shall also become bound with one or more sufficient sureties in the sum of one thousand pounds to the governor [or] commander in chief for the time being, conditioned for the true and faithful execution of his said office.

[Section IV.] And be it enacted by the authority aforesaid, That so much of the said act hereinbefore last recited as relates to the appropriation of the surplus of the duties aforesaid is hereby repealed and made null and void to all intents and purposes.

Passed February 17, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed April 29, 1758, Chapter 432; and the Act of Assembly passed March 6, 1769, Chapter 568.

### CHAPTER CCCCLXXVII.

AN ACT FOR VESTING THE STATE HOUSE AND OTHER PUBLIC BUILD-INGS, WITH THE LOTS OF GROUND WHEREON THE SAME ARE ERECTED, TOGETHER WITH OTHER LOTS SITUATE IN THE CITY OF PHILADELPHIA, IN TRUSTEES FOR THE USES THEREIN PARTICU-LARLY MENTIONED.

Whereas by the directions of the representatives of the freemen of the province of Pennsylvania Andrew Hamilton and William Allen, Esquires, did purchase for the use of the said province divers lots of ground situate and being on the south side of Chestnut street, in the city of Philadelphia, lying contiguous to each other and contained within the bounds following, to wit: Beginning at a corner on the east side of the Sixth street from Delaware and on the south side of Chestnut street and extending thence by the said Chestnut street south seventyfive degrees east, three hundred and ninety-six feet to a corner on the west side of the Fifth street from Delaware, thence by the same south fifteen degrees west, three hundred thirty-seven feet; thence by other ground north seventy-five degrees west, one hundred and forty-eight feet and an half, to a line of a lot of ground reputed to be vacant, thence by the same these three several courses and distances next following, to wit: North fifteen degrees east, eighty-two feet, thence north seventy-five degrees west, ninety-nine feet; thence south fifteen degrees west, eighty-two feet, thence by other ground north seventy-five degrees west, one hundred and forty-eight feet and an half to the east side of Sixth street aforesaid, thence by the same north fifteen degrees east, three hundred thirty-seven feet to the place of beginning. And whereas the said William Allen did also purchase of Andrew Morris for the use of the said province one other lot of ground adjoining to the land herein first mentioned, bounded on the south by Walnut street, eastward with a lot formerly of John Bird, northward with ground hereinbefore described, and westward with a lot reputed to be vacant, containing in breadth on the said Walnut street forty-nine and an half feet and in length or depth two hundred and fifty-five feet. And whereas since the purchases aforesaid were made as aforesaid, a State House and other buildings have been erected at the charge of the said province on part of the ground so purchased; and to the end and intent that the said State House, buildings and part of the lots of ground so purchased might be effectually secured to and for the use of the province, it was declared and enacted in and by an act of General Assembly passed in the ninth year of the late reign, entitled "An act for vesting the State House and other public buildings with the lots of land whereon the same are erected in trustees for the use of this province," 1 that the said Andrew Hamilton and William Allen should, and they were thereby required to convey by some good and sufficient assurance or assurances in the law unto John Kinsey, Joseph Kirkbride (the younger), Caleb Cowp-

<sup>1</sup> Passed February 20, 1735-36, Chapter 343.

land and Thomas Edwards, Esquires, the lands, tenements and hereditaments aforesaid and all and singular the appurtenances thereunto belonging or in any wise appertaining, to hold to them and the survivors of them, and to the heirs of the survivor of them forever, to the uses, intents and purposes in the same act particularly mentioned and specified. And whereas the said Andrew Hamilton, John Kinsey, Caleb Cowpland and Joseph Kirkbride, junior, are since dead, and the said assurance or assurances have not been as yet executed and perfected according to the directions of the said act, now, to the end and intent that the said State House, buildings and lots of ground purchased and described as aforesaid (excepting and always foreprizing thereout two certain corner lots hereinafter described) may be effectually secured to the use of this province, and that the legal estate and heritance thereof may be vested in trustees to and for the uses and purposes hereinafter mentioned and specified:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said State House, buildings and lots of ground purchased as aforesaid, except as before excepted and foreprized, and all the immunities, improvements, advantages, hereditaments and appurtenances to the same belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders thereof, and all the estate, right, title, interest, claim and demand whatsoever of the said Andrew Hamilton, in his life time and of his heirs at law since his decease, and of the said William Allen of, in, to and out of the premises shall, From and after the passing of this act, be settled upon and vested in Isaac Norris, Thomas Leech, Joseph Fox, Samuel Rhoads, Joseph Galloway, John Baynton and Edward Pennington, Esquires, and the survivors and survivor of them and the heirs and assigns of such survivor forever freed and discharged and

absolutely acquitted, exempted and exonerated of and from and against all and every the uses, intents and purposes mentioned and contained in the said recited act of Assembly and of and from all claims and demands of the said heirs of the said Andrew Hamilton and the said William Allen and his heirs, and of either or any of them forever; but nevertheless upon the trusts and to and for the ends, intents and purposes and subject to the uses hereinafter mentioned, expressed and declared: That is to say, to and for the use of the representatives of the freemen of this province which now are and from time to time hereafter shall be duly elected by the freemen aforesaid, and to and for such other uses, intents and purposes as they, the said representatives, at any time or times hereafter in assembly met shall direct and appoint.

Provided always, nevertheless, and it is hereby declared to be the true intent and meaning hereof, that no part of the said ground lying to the southward of the State House within the wall as it is now built to be made use of for erecting any sort of building thereon, but that the same shall be and remain a public green and walk forever.

And upon this further trust and confidence and to this further end, intent and purpose that the said Isaac Norris', Thomas Leech, Joseph Fox, Samuel Rhoads, Joseph Galloway, John Baynton and Edward Pennington and the survivors and survivor of them and the heirs of such survivor shall, from time to time, and at all times hereafter permit and suffer such suit and suits, action and actions, to be commenced and prosecuted in his or their name or names or against him or them, or any of them, and also make, seal, deliver, execute and acknowledge such deed or deeds, conveyance or conveyances, fines, recoveries or assurances in the law for the lands, tenements and hereditaments settled and vested in the said trustees as aforesaid or any part and parcel thereof to the uses aforesaid to such person or persons and in such manner and form and to the uses aforesaid as the representatives aforesaid in assembly met shall at any time or times hereafter direct and appoint.

So always that they, the said Isaac Norris, Thomas Leech, Joseph Fox, Samuel Rhoads, Joseph Galloway, John Baynton and Edward Pennington and their heirs, executors and administrators and every of them, be well and truly indemnified, saved and kept harmless of and from any costs, charges, troubles or molestations whatsoever which may arise for or by reason of such suits, deeds, conveyances, fines, recoveries or assurances so to be commenced, prosecuted, made and executed.

And whereas two certain lots of ground situate and lying in the said city of Philadelphia, being parts and parcels of the said lot of ground before described, one of them beginning at a corner on the east side of Sixth street and on the south side of Chestnut street and extending thence by the said Chestnut street, fifty feet to a corner, thence south fifteen degrees west seventy-three feet to another corner, thence north seventy-five degrees west fifty feet to a corner, being on the east side of the said Sixth street, and from thence along the said street north fifteen degrees east seventy-three feet to the place of beginning; and the other of the said lots beginning at a corner on the west side of Fifth street from Delaware Front street and on the south side of Chestnut street and extending from thence along the west side of Fifth street seventy-three feet to a corner being on the west side of the said Fifth street, and from thence north seventy-five degrees west fifty feet to a corner, and from thence north fifteen degrees east seventy-three feet to the south side of Chestnut street and from thence along the south side of the said Chestnut street fifty feet to the place of beginning, were purchased by the said Andrew Hamilton, in his lifetime, with intent that they should be assured and conveyed to the trustees aforesaid, one of them for the use of the county of Philadelphia, and the other of them for the use of the city of Philadelphia aforesaid for erecting two public buildings for the holding of courts or common halls for the said county and city respectively. which assurance or conveyance was never made and executed: Now, to the end and purpose that the said lots may be effectually secured to the several and respective uses aforesaid and that the said estate and inheritance of the premises may be vested in trustees for the uses, intents and purposes hereinafter mentioned and specified:

[Section II.] Be it enacted by the authority aforesaid, That

the said two lots of ground last above described and all the ammunities, improvements, advantages, hereditaments and appurtenances to the same belonging or in any wise appertaining. and the reversion and reversions, remainder and remainders thereof, and all the estate, right, title, interest, claim and demand of the said Andrew Hamilton in his lifetime and of his heir or heirs since his death shall, from and immediately after the passing of this act, be settled upon and vested in Isaac Norris, Thomas Leech, Joseph Fox, Samuel Rhoads, Joseph Galloway, John Baynton and Edward Pennington, Esquires, and the survivors and survivor of them and the heirs of such survivor forever freed, exonerated and forever discharged of and from all claims and demands whatsoever of the said heir or heirs at law of the said Andrew Hamilton, in trust nevertheless and to and for the ends, intents and purposes and subject to the uses hereinafter mentioned, expressed and declared: That is to say, that they, the said Isaac Norris, Thomas Leech, Joseph Fox, Samuel Rhoads, Joseph Galloway, John Baynton and Edward Pennington or the survivors and survivor of them and the heirs and assigns of such survivor upon payment of the sum of fifty pounds lawful money of this province for each of the said lots to them, the said trustees or the survivors or survivor of them, for the use of the province, shall convey and make over by some proper conveyance or conveyances, deed or deeds and assurance or assurances in the law at the proper costs and charges of the county of Philadelphia one of the said lots of ground, to wit, the lot bounded on Sixth street aforesaid, to such person or persons and their heirs as the justices of the court of quarter sessions of the said county shall nominate and appoint, to and for the building and erecting a public building thereon for the holding of courts or common halls for the said county; the other of the said lots bounded on Fifth street aforesaid to the mayor or commonalty of the city of Philadelphia and their successors for erecting a public building thereon for the holding of courts or common halls for the use of the said city and to no other use or uses, intents or purposes whatsoever, which said buildings shall be made and constructed of the like outward form, structure and dimensions.

Saving and always reserving to all and every person and persons, bodies politic and corporate, his, her and their heirs and successors, executors and adminstrators (other than the heirs of the said Andrew Hamilton and the said William Allen and his heirs, and of the said Isaac Norris, Thomas Leech and Joseph Fox and their and each of their heirs, under certain deeds of trust bearing date the sixteenth of September, one thousand seven hundred and sixty-one, made by the said James Hamilton and William Allen to them, the said Isaac Norris, Thomas Leech and Joseph Fox and their heirs, pursuant to the directions of the representatives of the people) all such estate, right, title and interest of, in, to and out of the premises vested in the trustees as aforesaid as they, every or any of them had before the passing of this act or could or might have had or enjoyed in case this act had not been made or passed.

[Section III.] And be it further enacted by the authority aforesaid, That this act shall be deemed, adjudged and taken to be a public act, and shall be judicially taken notice of as such by all judges, justices and other persons whatsoever without specially pleading the same.

[Section IV.] And be it enacted by the authority aforesaid, That the act, entitled "An act for vesting the State House and other public buildings with the lots of land whereon the same are erected in trustees for the use of the province," 'shall be and is hereby declared to be repealed, null and void to all intents and purposes.

Passed February 17, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Acts of Assembly passed May 14, 1762, Chapter 482; February 28, 1780, Chapter 878; April 8, 1765, Chapter 1165; March 10, 1812, P. L. 101; March 13, 1815, P. L. 162; March 11, 1816, P. L. 109; March 23, 1818, P. L. 234; March 7, 1821, P. L. 83; August 5, 1870, P. L. (1871) 1548; July 3, 1895, P. L. 604.

<sup>1</sup> Passed February 20, 1735-36, Chapter 343.

#### CHAPTER CCCCLXXVIII.

AN ACT FOR THE MORE EFFECTUAL SUPPRESSING AND PREVENTING
OF LOTTERIES.

Whereas many mischievous and unlawful games called lotteries have been set up in this province which tend to the manifest corruption of youth and the ruin and impoverishment of many poor families. And whereas such pernicious practices may not only give opportunities to evil-disposed persons to cheat and defraud the honest inhabitants of this province, but prove introductive of vice, idleness and immorality, injurious to trade, commerce and industry and against the common good, welfare and peace of this province:

For remedying whereof:

[Section I.] Be it enacted, adjudged and declared, and it is hereby enacted, adjudged and declared by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all lotteries whatsoever, whether public or private, are common and public nuisances and against the common good and welfare of this province.

[Section II.] And be it further enacted by the authority aforesaid. That from and after the publication of this act no person or persons whatsoever shall publicly or privately set up, erect, make, exercise, keep open, show or expose to be played at, drawn at or thrown at, [any lottery, play or device] <sup>1</sup> or shall cause or procure the same to be done either by dice, lots, cards, balls, tickets [or any other numbers or figures] or [in] any other manner or way whatsoever; and that every person or persons that shall set up, erect, make, exercise, keep open, show or

<sup>1</sup> These words are not printed in the original roll.

expose to be played at, drawn or thrown at any such lottery, play or device or that shall cause or procure the same to be done after the publication of this act and shall be thereof legally convicted in any court of quarter sessions within the jurisdiction whereof the said offenses shall be committed, or in the Supreme Court, if thereunto removed from any of the inferior courts within this province, shall forfeit and pay the sum of five hundred pounds lawful money of Pennsylvania.

[Section III.] And be it further enacted by the authority aforesaid, That all and every person and persons whatsoever that shall buy, sell or expose to sale or that shall advertise or cause to be advertised the sale of any ticket or tickets or device whatsoever in such lotteries, plays or devices, or that shall be aiding, assisting or in any ways concerned in managing, conducting or carrying on such lotteries, plays or devices by whatsoever name the same may be called and legally convicted thereof in either of the courts aforesaid, shall forfeit and pay the sum of twenty pounds lawful money of Pennsylvania for every such offense.

[Section IV.] And be it further enacted by the authority aforesaid, That all and every person and persons whatsoever that shall, within this province, buy, sell or expose to sale or shall advertise, or cause to be advertised, the sale of any ticket or tickets or other device whatsoever in any lottery, play or device whatsoever, which shall be hereafter set up, erected, made, exercised, kept open, shown or exposed to be drawn at, played at or thrown at in or at any place or places out of this province (State lotteries erected and licensed by act of Parliament in Great Britain only excepted and foreprized) and be thereof legally convicted in manner aforesaid shall forfeit and pay the sum of twenty pounds lawful money of Pennsylvania for every such offense.

[Section V.] And be it [further] enacted by the authority aforesaid, That all the fines, forfeitures and penalties hereby inflicted shall be paid to the overseers of the poor for the time being for the use of the poor of the city, borough or township where any of the said offenses shall be committed.

Provided always, nevertheless, That nothing herein contained

shall be deemed or taken to extend to any lottery advertised in the public newspapers of this province on or before the fourth day of February, in the year of our Lord one thousand seven hundred and sixty-two, nor to the the [sic] selling or buying of any ticket or tickets in such lottery, anything herein contained to the contrary thereof notwithstanding.

[Section VI.] And be it enacted by the authority aforesaid, That the clause in an act of Assembly of this province, entitled "An act for regulating peddlers and vendues," &c.,¹ enacting That if any person or persons shall presume to take upon him or themselves, from and after the publication of said act, upon any pretense whatsoever, privately or publicly to be set up, exercise or keep any lottery or lotteries within the province of Pennsylvania and be thereof legally convicted, he, she or they shall forfeit one hundred pounds, one moiety thereof to the governor, the other moitey to any person that will sue for the same, is hereby repealed and declared to be null, void and of no effect.

Passed February 17, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the notes to the Acts of Assembly passed May 31, 1718, Chapter 236; and February 14, 1729-30, Chapter 308; and the Acts of Assembly passed June 20, 1759, Chapter 446; January 20, 1792, Chapter 1603; March 2, 1805, P. L. 48; April 2, 1811, P. L. 226; March 1, 1833, P. L. 60; March 16, 1847, P. L. 476; March 31, 1860, P. L. 382; April 2, 1870, P. L. 46; June 13, 1883, P. L. 90.

## CHAPTER CCCCLXXIX.

AN ACT FOR OPENING AND BETTER AMENDING AND KEEPING IN REPAIR THE PUBLIC ROADS AND HIGHWAYS WITHIN THIS PROVINCE.

Whereas the laws now in force for the keeping in repair the several public roads and highways have been found burdensome and unequal upon many of the inhabitants of this province and insufficient to answer the good purposes thereby intended inas-

<sup>1</sup> Passed February 14, 1729-30, Chapter 308.

much as no provision is made for supplying the overseers and inhabitants working thereon with timber and other materials necessary for making effectual repairs on the said roads:

For remedying whereof:

[Section I.] Be it enacted by the Honorable James Hamilton. Esquire, Lieutenant-Governor under the Honorable Thomas l'enn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That Joseph Fox, Esquire, Hugh Roberts, William Callender, John Roberts (Miller), Jacob Edge, John Shrack and William Foulke, of Philadelphia county; James Melvin, Esquire, Joseph Hampton, John Woolston, Alexander Brown and John Brown (of Bristol), of Bucks county; John Morton, John Hannum, Esquires, Jonas Preston, Joseph Pennock, junior, John Griffith, John Marshall and Thomas Pimm, of Chester county; Emanuel Carpenter, Samuel Boude, Esquires, George Leanord, John Clemson and Peter Kucher, of Lancaster county; David McConaughy, Esquire, Francis Worley, William Dunlap, Thomas Minshal and David Griffith, of York county; John Byers, James Galbreath, Francis Campbell, Esquires, Benjamin Chambers and James McDowell, of Cumberland county; Francis Parvin, Jonas Seely, Isaac Levan, Esquires, Benjamin Spiker, Thomas Potts (of Colebrookdale), Israel Robeson and Sebastian Zimmerman, of Berks county; Adam Johe, John McDowell, Christopher Wagoner, John Walker and George Rex, of Northampton county, or the major part of them, in their and each of their counties, shall, on or before the tenth day of March next, divide their said respective counties into districts according to their best discretion, having a due regard to the public roads and highways passing through the same, allotting one or two townships adjoining each other into one district until all the townships in the several counties respectively shall be formed into districts as aforesaid; of which division they shall forthwith give notice in writing to the overseers of the public roads of the township or townships within their respective districts.

And to the end the charges of clearing, amending and repairing the several public roads and highways may be defraved:

Section II. Be it enacted by the authority aforesaid. That the freeholders and others qualified to choose members of assembly of every district shall meet together on the third Sameday in the month of March yearly and every year during the continuance of this act, and then and there by [way of] ballot or tickets in writing, between the hours of two and five in the afternoon, choose two discreet and reputable freeholders within their respective districts to be supervisors of the highways. which said supervisors, when chosen and returned in writing. under the hands of the overseers of the public roads of the respective townships into the office of the clerk of the court of quarter sessions of the respective counties, which they are hereby enjoined to do on or before the twenty-fifth day of March, yearly, shall be the supervisors of the public roads and highways for the ensuing year; and if any supervisor or supervisors so elected or otherwise appointed by virtue of this act shall refuse to take upon him or themselves the said office, for every such refusal he or they shall forfeit and pay the sum of ten pounds, to be applied towards amending and repairing the said roads.

Section III. And be it further enacted by the authority aforesaid. That the overseers or supervisors of the public roads of the respective townships within the several counties of this province shall, at least five days before the third Saturday in March, yearly and every year, during the continuance of this act, give public notice in writing, by affixing the same in the most public places in their respective townships, of the place where the inhabitants and freeholders of the several districts so divided as aforesaid shall meet to elect supervisors for each and every of the said districts according to the directions of this act, which place so appointed for the said election shall be as near the centre of the respective districts as conveniently may be.

[Section IV.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said supervisors of the public roads and highways, within the respective districts of this province, in conjunction with the assessors of the several townships within their respective districts, chosen by virtue of the act of assembly made in the thirty-first year of the reign of his late Majesty, King George the Second, entitled "An act for granting the sum of one hundred thousand pounds to His Majesty's use and for striking the same in bills of credit, and for continuing the several acts of assembly of this province hereinafter mentioned for sinking the bills of credit so to be struck, at the times and in the manner hereinafter directed and appointed," to make or lay a rate or assessment not exceeding three pence in the pound, clear value of the real and personal estates of all and every the freeholders and inhabitants within their respective districts, to be employed for the opening, clearing, amending and repairing the [several] public roads and highways within their respective districts in such manner as by this act is directed and appointed.

Provided, nevertheless, That the said rate or assessment shall be laid according to the best of their skill and judgment, and as near as may be to the county assessment for [other] purposes laid in pursuance of the act, entitled "An act for laying county rates and levies," having due regard to every man's estate within the respective district in which he is assessed, without favor or affection to any person whomsoever.

[Section V.] And be it further enacted by the authority aforesaid, That if any supervisor or supervisors of the public roads and highways so as aforesaid chosen shall refuse or neglect to take upon him or themselves the said office, or shall die or remove out of the district for which he or they shall be chosen, or if the freeholders and inhabitants of the districts aforesaid shall neglect or refuse to elect or choose supervisors as is hereinbefore directed and appointed, then and in every such case it shall and may be lawful to and for the justices of the court of quarter sessions of the respective counties, and they are hereby enjoined and required to appoint another supervisor or supervisors in the room [and] stead of every such supervisor or supervisors so refusing, dying or removing as aforesaid; and likewise to appoint supervisors for such districts as have neglected or

<sup>1</sup> Passed April 22, 1758, Chapter 431.

<sup>&</sup>lt;sup>2</sup> Passed March 20, 1724-25, Chapter 284.

refused to choose supervisors for their respective districts in the manner nersin directed and appointed, which said supervisor or supervisors so appointed shall have the same powers and authorities and shall be liable to the same penalties as the supervisors so elected and chosen by each respective district in pursuance of the directions of this act, and shall have and receive for his or their trouble in collecting the several sums of money to be raised as aforesaid twelve pence in every pound by him or them collected, and five shillings per diem for each day he or they shall attend in overseeing, employing and attending the workmen upon the public roads and highways within their districts.

Beginn VI.] And be it further enacted by the authority aforesaid. That the said supervisors, before they proceed to the collecting of the said rate, shall procure the same to be allowed by at least two justices of the peace of the county wherein the said tax is laid, and if any person or persons so rated or assessed shall refuse to pay the sum or sums on him or them charged, and shall not enter his or their appeal at the next general court of quarter sessions, that then it shall and may be lawful to and for the said supervisor or supervisors (having first obtained a warrant, under the hand and seal of one justice of the peace of the county where the said assessment is made, who is hereby empowered and required to grant such warrant) to levy the same on the goods and chattels of the person or persons so refusing; and in case such person shall not, within three days next after such distress made pay the sum or sums on him or her assessed, together with the charges of such distress, that then the said supervisors, or either of them, may proceed to the sale of the goods distrained, rendering to the owner the overplus, if any, that shall remain on such sale, reasonable charges being first deducted.

Provided nevertheless, That if any person or persons shall find him, her or themselves aggrieved with such rate or assessment, it shall be lawful for the justices of the peace, at their next general quarter sessions, upon the petition of the party, to take such order therein as to them shall be thought expedient, and the same shall conclude and bind all parties, and the supervisor and supervisors in case of such appeal shall forbear making distress until the same be determined in the quarter sessions in the manner hereinbefore directed and appointed.

[Section VII.] And be it further enacted by the authority aforesaid, That the said supervisors of the public roads and highways of the several districts shall, and they are hereby required and enjoined, as often as the said several roads and highways within their respective districts shall be out of repair or as often as any new road shall be laid out and directed to be opened by lawful authority, to hire and employ a sufficient number of laborers to work upon, open, amend, clear and repair the same in the most effectual manner, and to purchase wood and all other materials necessary for that purpose, and to overlook the said laborers and see that the said roads and highways be effectually opened, cleared, amended and repaired according to the true intent and meaning of this act.

And in order to enable the said supervisors the more effectually to discharge their duty:

[Section VIII.] Be it enacted by the authority aforesaid, That it shall and may be lawful for the supervisors aforesaid, or any other person or persons by his or their order and direction, to enter upon any lands adjoining to or lying near the public roads and highways within their respective districts and to cut or open such drains or ditches through the same as he or they shall judge necessary completely to carry off and drain the water from such road; provided the same be done with as little injury and damage as may be to the owner of such lands; which drains and ditches so cut and opened shall be kept open by the said supervisors, if necessary, for amending the said road, and shall not be stopped or filled up by the owner or owners thereof or any other person or persons whatsoever, under the penalty of five pounds for every such offense.

[Section IX.] And be it further enacted by the authority aforesaid, That the said supervisors shall have full power and authority in any lands or ground adjoining the said public roads and highways within their respective districts to dig, or cause to be dug, any gravel, sand or stones, or to gather any loose stones lying on the said lands or to cut down any wood or trees growing in any piece or parcel of woodland adjoining the said

roads, as he or they shall think necessary for the purposes aforesaid, provided the same be done with as little damage as may be to the owner or owners of such land, and the same sand, gravel, stones or wood so dug, gathered and cut to carry off without the let, hindrance or control of the owner, he, the said supervisor paying or tendering to the said owner so much purchase-money as they shall agree the same to be worth; and if the said supervisor and owner cannot agree upon the price of the materials so wanted for repairing the roads as aforesaid, then and in [every] such case so much money shall be paid by the said supervisors respectively as any two indifferent freeholders of the district where such public roads and highways do lie, to be chosen by the parties, shall estimate and adjudge to be the value of the materials so wanted for repairing the said roads in their respective districts as aforesaid.

[Section X.] And be it further enacted by the authority aforesaid, That if any person working on the highways or being with them, shall ask any money, drink or any other reward whatsoever, or shall by any contrivance, ways or means whatsoever extort or endeavor to extort any money or other thing of or from any person passing or travelling upon the said public reads or highways, he shall, for every such offense, pay to the supervisor or supervisors of the said district the sum of three shillings, to be recovered by the said supervisors respectively in a summary way before any justice of the peace, and applied for and towards repairing the said roads; and in case any supervisor shall connive at any person's asking and demanding any reward from any traveller as aforesaid; every such supervisor shall forfeit and pay for each offense the sum of twenty shillings, to be recovered by any person whatsoever in manner aforesaid, onehalf to the use of the prosecutor and the other half to and for the service of the said roads.

[Section XI.] And be it further enacted by the authority aforesaid, That all and every supervisor or supervisors of the public roads and highways within this province who shall be convicted of having refused or neglected to do and perform his or their duty as directed by this act (not otherwise particularly provided for) shall be fined and shall pay the sum of five pounds

for every such offense, to be applied towards repairing the public roads and highways within the respective districts where such fines and penalties are incurred.

[Section XII.] And be it further enacted by the authority aforesaid, That the justices of the respective counties within this province, or any three of them, shall and may, at the time and times when new supervisors of the roads are to be appointed, annually examine and settle the accounts of the said supervisors going out of their office, and shall have full power to allow such accounts and sums only as to them shall seem just and reasonable, and to order the then last supervisors to pay the balances, together with the fines and penalties on themselves respectively and others which have come to their hands or been imposed by virtue of this act to the supervisors for the ensuing year, and in case the said supervisors, on their going out of their respective offices, shall be found to be in advance for moneys expended upon the public roads and highways as aforesaid, then the said justices may order the succeeding supervisors to repay and reimburse the former supervisors as [as] soon as a sufficient sum of money shall have come into their hands; and in case of disobedience to any such of their orders, the said justices may and shall from time [to time] grant attachments to compel obedience to the same.

And whereas by an act of assembly passed in the tenth year of the reign of her late Majesty, Queen Anne, entitled "An act for raising money on the inhabitants of the city of Philadelphia for the public use and benefit thereof," the mayor, recorder and aldermen, or a majority of them, with any four of the assessors of the said city, are, at the days and times therein limited and appointed and in the manner therein for that purpose specified and directed, authorized and empowered, to calculate the public debts and charges of the said city and what sum or sums of money may be needful and necessary to be raised upon the Persons and estates within the said city from time to time for the building, repairing, regulating or amending of any houses. bridges, wharves, water courses or other uses for the public service and benefit of the said city, and shall also agree and

<sup>1</sup> Passed June 7, 1712, Chapter 185.

roads, as he or they shall think necessary for the purposes aforesaid, provided the same be done with as little damage as may be to the owner or owners of such land, and the same sand, gravel, stones or wood so dug, gathered and cut to carry off without the let, hindrance or control of the owner, he, the said supervisor paying or tendering to the said owner so much purchase-money as they shall agree the same to be worth; and if the said supervisor and owner cannot agree upon the price of the materials so wanted for repairing the roads as aforesaid, then and in [every] such case so much money shall be paid by the said supervisors respectively as any two indifferent freeholders of the district where such public roads and highways do lie, to be chosen by the parties, shall estimate and adjudge to be the value of the materials so wanted for repairing the said roads in their respective districts as aforesaid.

[Section X.] And be it further enacted by the authority aforesaid. That if any person working on the highways or being with them, shall ask any money, drink or any other reward whatsoever, or shall by any contrivance, ways or means whatsoever extort or endeavor to extort any money or other thing of or from any person passing or travelling upon the said public roads or highways, he shall, for every such offense, pay to the supervisor or supervisors of the said district the sum of three shillings, to be recovered by the said supervisors respectively in a summary way before any justice of the peace, and applied for and towards repairing the said roads; and in case any supervisor shall connive at any person's asking and demanding any reward from any traveller as aforesaid; every such supervisor shall forfeit and pay for each offense the sum of twenty shillings, to be recovered by any person whatsoever in manner aforesaid, onehalf to the use of the prosecutor and the other half to and for the service of the said roads.

[Section XI.] And be it further enacted by the authority aforesaid, That all and every supervisor or supervisors of the public roads and highways within this province who shall be convicted of having refused or neglected to do and perform his or their duty as directed by this act (not otherwise particularly provided for) shall be fined and shall pay the sum of five pounds

such streets leading to and from the several great roads and highways of the county of Philadelphia as they, the said magistrates and assessors, or a major part of the said magistrates and any four of the said assessors shall order to be amended and adjudged necessary to be repaired from time to time.

And if the supervisor or supervisors so as aforesaid to be nominated and appointed shall neglect or refuse to amend and keep in repair the said streets, or any part thereof, he or they shall be subject to the same penalties as are hereinbefore imposed upon the supervisors in the districts of the several counties of this province, to be recovered of them in the same manner.

[Section XV.] And be it further enacted by the authority aforesaid, That so much of the act of general assembly of this province, made in the twelfth year of the reign of His Majesty, King William the Third, entitled "An act for erecting bridges and maintaining highways," as directs every overseer of the highways to summon all the inhabitants of his respective precinct as from time to time he should see occasion to come to such place or places as he should appoint, and so much of the said act as directs the inhabitants so summoned to attend and work upon the said highways, shall be and such parts of the said act are hereby repealed and made void.

[Section XVI.] And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of three years and from thence to the end of the next sitting of assembly, and no longer.

Passed February 17, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the notes (to the two acts of) Assembly passed November 27, 1700, Chapters 55, 57; January 12, 1705-6, Chapter 156; February 20, 1735-36, Chapter 342; and (the two acts of) Assembly passed March 26, 1762, Chapters 480, 481; March 4, 1763, Chapter 495; May 18, 1765, Chapter 526.

<sup>1</sup> Passed November 27, 1700, Chapter 57.

settle, from time to time as occasion [may require, what sum or sums of money or other effects] shall be applied to the service of every particular which they shall agree on to be necessary to be raised for the ensuing year; and that the said assessors shall, within six weeks after every such calculation, make or lay a rate or assessment upon themselves and all other persons and estates aforesaid to and for the aforesaid uses.

And whereas, notwithstanding the powers given by the said act to the said mayor, recorder, aldermen and assessors, many of the parts of the public streets and highways within the said city have, for some time past, been out of repair and in so bad a condition as to render it not only inconvenient but even dangerous for carriages as well as travellers to pass along the same:

[Section XIII.] Be it therefore enacted by the authority [aforesaid], That the said mayor, recorder and aldermen, or the majority of them, with any four of the assessors of the said city, are hereby [strictly] enjoined and required, as often as there may be occasion, to meet together and calculate, in the manner directed by the said act, what sum or sums of money shall or may be necessary to be raised upon the persons and estates within the said city for amending, repairing and making good the streets and highways in the same, which sums shall be raised and levied by a tax or rate not exceeding three pence in the pound, and collected in the manner and form by the said act particularly prescribed and directed.

And the more effectually to enable the magistrates and assessors to comply with this act:

[Section XIV.] Be it further enacted by the authority aforesaid, That the said mayor, recorder and aldermen, or a majority of them, with any four of the assessors as aforesaid, shall have power and they are hereby required and enjoined to appoint, on the twenty-fifth day of March yearly during the continuance of this act, a supervisor or supervisors of the said streets and highways in the said city, and to contract and agree with them for such sums and rewards as they shall judge reasonable to amend, repair and render convenient and safe for carriages, travellers and people going to and from market, all or any [of] such places in the said city and parts of the said streets, and particularly

such streets leading to and from the several great roads and highways of the county of Philadelphia as they, the said magistrates and assessors, or a major part of the said magistrates and any four of the said assessors shall order to be amended and adjudged necessary to be repaired from time to time.

And if the supervisor or supervisors so as aforesaid to be nominated and appointed shall neglect or refuse to amend and keep in repair the said streets, or any part thereof, he or they shall be subject to the same penalties as are hereinbefore imposed upon the supervisors in the districts of the several counties of this province, to be recovered of them in the same manner.

[Section XV.] And be it further enacted by the authority aforesaid, That so much of the act of general assembly of this province, made in the twelfth year of the reign of His Majesty, King William the Third, entitled "An act for erecting bridges and maintaining highways," as directs every overseer of the highways to summon all the inhabitants of his respective precinct as from time to time he should see occasion to come to such place or places as he should appoint, and so much of the said act as directs the inhabitants so summoned to attend and work upon the said highways, shall be and such parts of the said act are hereby repealed and made void.

[Section XVI.] And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of three years and from thence to the end of the next sitting of assembly, and no longer.

Passed February 17, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the notes (to the two acts of) Assembly passed November 27, 1700, Chapters 55, 57; January 12, 1705-6, Chapter 156; February 20, 1735-36, Chapter 342; and (the two acts of) Assembly passed March 26, 1762, Chapters 480, 481; March 4, 1763, Chapter 495; May 18, 1765, Chapter 526.

<sup>1</sup> Passed November 27, 1700, Chapter 57.

# CHAPTER CCCCLXXX.

AN ACT FOR REGULATING, PITCHING, PAVING AND CLEANSING THE HIGHWAYS, STREETS, LANES AND ALLEYS AND FOR REGULATING, MAKING AND AMENDING THE WATER-COURSES AND COMMON SEWERS WITHIN THE INHABITED AND SETTLED PARTS OF THE CITY OF PHILADELPHIA, AND FOR RAISING OF MONEY TO DEFRAY THE EXPENSES THEREOF.

Whereas the paving the streets, lanes and alleys of the city of Philadelphia within the inhabited and settled parts thereof hath been, in many places, neglected and in others very imperfectly and badly performed, so that for the want thereof they are rendered exceeding deep and miry and almost impassable in wet seasons, and in dry and windy weather very incommodious and disagreeable to the inhabitants, to their great injury and annoyance:

And whereas the paving the said streets, lanes and alleys and keeping the same clean when paved will render them more commodious and useful and greatly contribute to the preservation of the health of the people inhabiting therein or resorting thither:

For effecting which good purposes:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That Hugh Roberts, Philip Syng, Jacob Cooper, Thomas Gordon, Jacob Lewis and George Bryan are hereby nominated and appointed commissioners for paving and cleansing the said streets, and that the said Hugh Roberts and Philip Syng shall continue in their respective offices during the space of one year, and that Jacob Cooper and Thomas Gordon shall continue in their respective offices during the space of two years and that

Jacob Lewis and George Bryan shall continue in their respective offices during the space of three years from and after the second day of October next ensuing the publication of this act.

And in order to keep up a succession of persons in the said offices to execute and perform the several duties, matters and things by this act enjoined and required:

[Section II.] Be it further enacted, That the freeholders and inhabitants of the said city qualified to elect or to be elected members of assembly at the time and place of their electing burgesses to serve in assembly, shall then and there, yearly, during the continuance of this act (except on the second day of October next ensuing the publication hereof) in a peaceable manner, choose two persons for commissioners for paving and cleansing the streets of the said city, to serve in the room and stead of the commissioners whose office shall end and terminate at that time and to join with the four remaining commissioners in the execution and performance of the duties and services enjoined them by this act in manner following: That is to say. the said freeholders, at the time they deliver in their tickets for the choice of burgesses, shall also deliver in writing in one other piece of paper to the judges of the election, the names of two persons to be commissioners as aforesaid, and when all the electors appearing shall have delivered in their respective tickets, the sheriff and judges of the said election shall take an account thereof and publish the persons duly elected to the service as aforesaid in like manner as by law is directed in cases of elections of representatives to serve in the general assembly of this province, which commissioners so from time to time to be chosen shall be the commissioners to serve in the room and stead of the persons whose offices shall determine at the time of their election and shall remain in their said offices during the space of three years.

And when the said commissioners shall from time to time be so chosen, the sheriff of the county of Philadelphia or others the judges of the said election, then and so often shall take their names in writing under the hands and seals of at least four or more of the said freeholders and certify the same to the clerk of the mayor's court of the said city for the time being that by him

the same may be entered among the records of the said court. But before any of the said commissioners herein nominated and appointed or hereafter to be chosen by virtue of this act, shall take upon him or themselves the services and duties by this act enjoined and required, they and each of them shall take an oath or affirmation of the tenor and effect following: That is to say,

"That they will well and truly cause the debts arising by virtue of this act to be speedily adjusted and the several sums of money hereby imposed to be duly collected and applied to the purposes by this act intended and to no other purpose, and that they will diligently attend and faithfully discharge the duties and services enjoined them by this act during their office of commissioner as aforesaid, according to the best of their skill and abilities."

[Section III.] And be it further enacted, That the said com missioners, or a majority of them, as soon as conveniently may be after the publication of this act, and so from time to time as often as there may be occasion, shall meet together at some convenient place in the said city and then and there consult together respecting the best method and manner of paving and keeping clean such of the streets and public lanes and alleys of the said city as are within the inhabited and settled parts thereof, and of amending and repairing the common sewers of the said city already made, and of making, amending and repairing such as shall hereafter be made for discharging and carrying off the water into the river, and of making, amending and repairing the public streets, roads and highways within the said city leading from any of the public roads in the country to the paved and regulated parts of the said streets and contract with any person or persons for sand, stone, gravel or any other materials convenient and necessary for the uses and purposes aforesaid, and to contract, agree with and hire such a number of pavers and workmen as they shall judge necessary and proper to be employed from time to time in and about the premises and to agree on, execute and perform every other act, matter and thing which to them shall appear necessary for the effectual paving and keeping clean the said streets, lanes and alleys when paved and other

purposes aforesaid from time to time and at all times hereafter during the continuance of this act.

[Section IV.] And be it enacted, That the mayor or recorder of the said city and any four of the aldermen, together with the commissioners aforesaid, or a majority of the said commissioners, shall meet together as often as occasion may require, at some convenient place in the said city and then and there consider, determine and agree on which of the said streets and public lanes and alleys within the inhabited and settled parts of the said city shall be first paved, having regard to the streets that are most used by the country in bringing their produce and effects to market, which are hereby directed to be first paved.

[Section V.] And be it enacted, That the said mayor or recorder and four aldermen, together with any four of the regulators of the said city for the time being, shall appoint and direct the regulation of the said streets, lanes and alleys and common sewers, with the degree of descent of each watercourse.

Provided always, That no common sewer or watercourse to be laid out shall be so regulated and laid out as to run through any lot or ground belonging to any private person or persons unless the same shall be agreed to and approved of by at least four of the said commissioners, and in every such case that the damages sustained, or to be sustained, by reason thereof by such private owner or owners shall be valued and appraised by two indifferent persons, one of them to be chosen by the said commissioners and the other by such owner or owners, and also that the said damages shall be paid to such owner by order of the said commissioners out of the moneys arising by virtue of this act.

[Section VI.] And be it further enacted, That the said mayor or recorder, aldermen and regulators shall have full power and authority to enter upon the lots, grounds and possessions of any person or persons, bodies politic or corporate, through which the said common sewers do or ought to run to regulate them, and the said commissioners to make, amend and repair the same, provided that such common sewers be regulated, made, amended and repaired with as little detriment and injury as may be

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Section VIII. And he is married. That if any nember or perwith viatheres shall viitly still to be fostered the tessage of the waters of any of the enumber sewers already made or acceptive to be made within the said tity, he to they so offending that forfer and pay he every such offense buy sin we exceeding the mm of twenty-five remarks

Section VIII. And he is ensured. That the said commisstoners, or a majority of them, from time to time shall employ, hire and agree with peoper and capable persons to clean the earthway of the said streets, lanes and alleys which have been investifiers or shall be so parel as aloresaid, and to remove and carry off from thence all the mod, dirt and other filth there found that shall or may incommode the inhabitants in such manner and form and at such time and times as they, the said commissioners, or a majority of them, with the mayor or recorder and any four of the aldermen aforesaid shall direct and appoint, which said persons so agreed with and employed, shall take upon themselves the office and duty of scavengers pursuant to their respective agreements aforesaid under the penalty of five pounds for every neglect or refusal, and if any such scaveager shall neglect or refuse to carry off and remove all and every part of the mud, mire, dirt and other filth found in the streets, lanes and alleys aforesaid agreeable to his contract with the said commissioners, he shall forfeit and pay any sum not exceeding twenty shillings for every such offense.

[Section IX.] And be it further enacted, That the inhabitants and occupiers of the houses and lots and the sextons, porters or other keepers of churches, meeting-houses, academies, wehools and other public buildings and burying-grounds fronting the paved streets, lanes and alleys within the said city shall rake and sweep into the cartway the dirt, soil and other filth to be found on the brick pavement or footway, before their respective houses, lots or dwellings, or cause the same to be done once at least in every week: That is to say, on every Friday when the snow or ice on the said pavement does not prevent, that it may be removed by the said scavengers on the same day or the

detailed by the tenant out of the rent then due or thereafter to become due, any law, usage or custom to the contrary notwithstanding. And if any owner of any house and lot before whose front the cartway shall be paved in pursuance of this act, or if any tenant of any such house or lot shall refuse or neglect to pare and repair the footway agreeable to the direction and order aforesaid, every such owner, if a resident within the said city, and every such tenant of such non-resident owner shall forfeit and pay for every foot fronting his possession so neglected to be paved, the sum of one shilling; and that the said commissioners, or a majority of them shall make, amend and repair the same out of the public moneys by this act directed to be raised, and shall recover the same of such resident owner or to nant of such non-resident owner respectively as the case may require, in a summary way before the mayor, recorder or any alderman of the said city in the same manner as debts not exceeding five pounds are by law directed to be recovered by the justices of the peace of the respective counties within this province.

And whereas sundry owners and possessors of houses and lots within the said city have heretofore paved and pitched the cartway opposite to their respective houses and lots and it is but reasonable and just that such owners should be allowed for the value and worth of such pavements to the public, and that the same should be deducted and allowed out of the rate and assessment hereby directed to be made and laid.

[Section XIII.] Be it therefore enacted, That the pavement so made and pitched in the cartway by any such owner before or adjacent to his, her or their houses and lots at his, her or their proper costs and charge shall at his, her or their request and desire, made and signified to the commissioners aforesaid, or a majority of them, be valued and appraised by two appraisers, to be appointed by them for that purpose, and any two of the regulators of the said city (provided they are not commissioners), who are hereby enjoined and required to appraise the same and to deliver to such owner an account, in writing, of such appraisement, and also to return a duplicate of such account to the commissioners aforesaid with all convenient speed.

[Section XIV.] And be it further enacted and provided nevertheless, That no rate or assessment to be made by virtue of this act on the estates of such owners who shall have paved before or adjacent to their respective estates as aforesaid shall be levied or collected before the sum total of their several assessments shall amount to the sum at which the pavement so made in the cartway shall be appraised by the persons so to be appointed by the said commissioners and the regulators aforesaid, and the said appraisement shall be deemed and is hereby declared to be in satisfaction of the like money arising on a fair taxation of their respective estates as aforesaid and in discharge of so much of their several rates and assessments, to be made by virtue of this act, and no more.

And whereas sundry sums of money have been heretofore raised on the inhabitants of this province by lotteries for paving and pitching the said streets, which sums of money, or a great part thereof, now remain in the hands of the managers of the said lotteries not yet laid out or disposed of, and the managers of one of the said lotteries have signified to the representatives of the people in assembly met their desire that the said sums of money in their hands should be appropriated and disposed of by the commissioners aforesaid towards paving the streets of the said city:

[Section XV.] Be it therefore enacted, That the said commissioners, or a majority of them, are hereby authorized and empowered to take and receive of and from the managers of any lottery or device whatsoever heretofore instituted for raising of money for paving the streets of the said city, or any of them, and of and from all and every other person and persons, bodies politic or corporate whatsoever, all and every such sum and sums of money which shall be offered or tendered to them, and to give one or more good and sufficient receipts and discharges for the same, which receipts or discharges shall and are hereby declared fully and sufficiently to exonerate and discharge every such person or persons, bodies politic or corporate, who shall pay any such moneys to the said commissioners of and from the appropriation and disposition thereof and of and from all manner of trust or duty arising from or respecting such money

the rooms and armaco that some and that the said sums with all mmissioners shall, with all notified their a policy of isnoyed if towards paving the community intended or declared in where some firms former of the managers of the said commendations respectively and to no of one and a president of actions are not that in the same manner ed reduction came regulations and also recounted for as other o constanting villager scirners, and enjoined to be laid The Completion of that arrest times the

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section 2.77 Be a macrea. Har a shall and may be and I is not in the commissioners itoresaid, or a majority of tions appeared of the grownsess or the time being or a company of here to meet as soon as they conveniently can after he publication of has not another exchains of October yearly and your come incess he same shall impren to be on a Sunday and how in he fay holowing at the court-house of the said a cone ther convenient made, and then and there to estioute and leterative what sum and sums of money shall be necesme a so wised and seried in the maintaints of the said city to contrading be purposes by this let intended.

desired (177). And he it further macted by the authority effect mid that he said commissioners, or any four of them, thatter with a first after such estimate is made, issue forth bein prompts. Streeted to the constables of the said city, requirmy more a oring to the said commissioners and assessors, elimin eight days next after the late of such precept, fair and true coefficator in writing, upon their legal qualifications main an earld commissioners are hereby empowered to admineffect, of the names and sirnames of all and every the persons A reducey or residing within the limits of their wards, and the names of all freemen, inmates, hired servants and all other present residing or sojourning in every of the said wards, togother with an account of what houses, lands, tenements, rentthorpes, bound servants and negroes, with their ages, they reapertively hold or possess in such ward without concealment,

fear, malice, favor or affection, upon pain of forfeiture of any sum not exceeding five pounds, to be levied as by this act is appointed; and every of the said constables shall have and receive from the treasurer hereafter to be appointed two pence [per pound] out of the sums to be collected from the inhabitants by them returned for their care and trouble in executing and returning the said precepts in manner aforesaid; and that the said commissioners and assessors, or a majority of them, shall meet at the day and place where the said precepts shall be made returnable and then and there receive the constable's returns, and that the said assessors shall thereupon, by the legal qualifications of the said constables or other credible persons, or by any other lawful ways [or means, inform themselves what persons and estates in the said city are | ratable by virtue of this act, and shall forthwith equally and impartially assess themselves and all others ratable as aforesaid, having a due regard to such as are poor and have a charge of children, and exempting out of such assessments all single men who, at the time of assessment, are under twenty-one years of age or have not been out of their servitude or apprenticeship twelve months, and all transient persons and strangers who shall have any goods or merchandise for sale in the said city shall, for such goods and merchandise, be rated in proportion to the said inhabitants. And the said assessors, for their time and labor in the premises, shall be allowed two pence per pound for the whole sums assessed, after the assessment is rectified and adjusted by the commissioners, according to the direction of this act, to be paid by the treasurer hereinafter appointed and to be equally divided amongst them, which said poundage shall be to the assessors for the time being in full satisfaction for all services and attendances required of them by this act.

Provided always, That no such assessment or assessments to be made by virtue of this act in any one year shall exceed the value of three pence in the pound, and that no person shall be chargeable within the intent and meaning of this act unless he be assessed at eight pounds or upwards, and that the said assessors, and each of them, shall, before they take on them-

selves the duties enjoined and required by this act, take a legal qualification to the effect following: That is to say,

"That they will well and truly cause the rates and sums of money by this act imposed to be duly and equally assessed and laid, to the best of their skill and knowledge, and therein shall spare no person for favor or affection, nor grieve any for hatred or ill-will, and that they and each of them, the said assessors, will diligently attend and faithfully execute the said office during the term of their continuance therein according to the best of their abilities and judgment;"

Which qualification the mayor or recorder, or any two of the aldermen aforesaid are hereby empowered and required to administer and to certify the same to the clerk of the sessions of the peace of the said city, to be by him filed among the records and papers of his office.

[Section XVIII.] And be it further enacted by the authority aforesaid. That the said commissioners and assessors the better to enable them to discharge the duties enjoined them by this act shall choose and employ a fit and able person for their clerk, who shall, in books to be provided for that purpose by the commissioners, make such entries and keep such accounts as he shall be directed to do by the commissioners and assessors, or a majority of them, from time to time, and shall also make such entries and keep such accounts as he shall be required to do by the commissioners, or a majority of them, of all such matters and things enjoined them by this act, and also to do and perform all other duties by him to be done in pursuance of this act, for which he shall be allowed such a reasonable reward as the said commissioners, or any four of them, shall appoint, which shall, by an order from the said commissioners, or any four of them, be paid him by the treasurer.

[Section XIX.] And be it further enacted by the authority aforesaid, That the said assessors shall, after the assessments made as aforesaid, appoint one or more fit person or persons to be collector or collectors of the said assessments from time to time, and shall cause fair duplicates of the assessments to be drawn, one part thereof shall be by the clerk delivered to the commissioners and the other part to the collector or collectors, with directions under the hands of four or more of the commis-

sioners to every such collector indorsed on his duplicate or annexed thereunto, requiring him or them to demand of the parties the respective sums of money wherewith they are chargeable and acquaint them of the day of appeal, which shall be appointed by the said commissioners within twenty days after the assessments are made, but where any of the said collectors cannot meet the party of whom demand is to be made as aforesaid, he or they shall leave notice in writing with some of the family or at the place of the party's last abode, signifying also the day of appeal, at which day the said collector or collectors shall return their duplicates with the names of such persons and value of such estates as shall be concealed, undervalued or omitted in the constables' returns; and if any person or persons shall find him, her or themselves aggrieved with any of the said assessments, supposing the same to be unequal, he, she or they may appeal to the commissioners aforesaid. And the said commissioners are hereby required to meet on the said day of appeal where the assessors shall attend and lay before the commissioners all the written certificates of the names of the taxables and the account of their estates returned by the constable as this act requires, together with the particular valuation set by the said assessors upon the persons and estates so returned, whereupon the commissioners shall take due notice thereof and may, if they think proper, examine the persons appealing upon their legal qualification concerning the cause of their appeal, which qualification they are hereby authorized to administer, and upon such examination or other proof they are hereby empowered to diminish or add to such person's rate or assessment as to them shall seem just and reasonable, with power also to call before them such persons and take notice of such estates as they find are omitted in the said assessments in order to rectify it and if the persons so omitted refuse or neglect to appear and give an account of the value of their estates, they shall be rated and assessed according to their estates by the judgment of the said commissioners, or a majority of them; and the said commissioners, upon hearing the appeals, shall rectify and adjust the said assessment by abating or adding to the sums contained in the duplicates and shall also cause their

collector to give the parties concerned where omissions are supplied or additions made to their assessments five days' notice to appear before the commissioners and make their objections thereunto; and the clerk shall, within five days next after the day of appeal, deliver to the treasurer hereinafter directed to be appointed a true account of the sums total which the collector or collectors aforesaid shall be charged with pursuant to the act; and the said commissioners shall cause their clerk to draw fair duplicates of the assessments so rectified as aforesaid and deliver them to the collector or collectors to be appointed as aforesaid within five days after the said day of appeal, with a warrant annexed thereunto under the hands and seals of four or more of the said commissioners, requiring him or them forthwith to collect and receive from the persons assessed the several sums in the duplicates mentioned; and in case any person or persons so rated or assessed by virtue of this act shall neglect or refuse to pay the sum or sums so assessed for the space of sixty days after demand made as aforesaid, it shall be lawful for the said collector or collectors, by virtue of a special warrant for that purpose signed and sealed by any four or more of the said commissioners, who shall forthwith grant the same, and shall thereby empower the said collector or collectors to call to their assistance, if occasion be, any constable or other person, and in case of resistance to break open in the daytime any house, trunk, box, chest, closet, cupboard or other things where any such offender's goods, chattels or effects are supposed to be and make distress and sale thereof, rendering the overplus, if any be, to the owners after reasonable charges deducted; but if no distress can be found by the collector or collectors and the party refuses or neglects to show them goods or chattels of his own forthwith to satisfy the money due, with reasonable charges, then the said assessments to be levied by imprisonment of the person so refusing or neglecting to pay as aforesaid until the same shall be paid, or on the goods or chattels of any of his tenants, if such there be, and the delinquent shall be obliged to discount it out of the first rent that shall afterwards accrue from the estate rented.

Provided always, That where effects cannot be found suf-

ficient to answer the whole sum in arrear, with charges as afore-said, then distress shall be made for so much as the effects extend to and the party be imprisoned as aforesaid only for the residue thereof with incident charges, all which charges of distress, assistance and bringing to prison shall be adjusted and settled by any four or more of the said commissioners when such occasion shall happen.

[Section XX.] And be it further enacted by the authority aforesaid. That the said collector or collectors shall, once in six weeks at least, render a just and true account of and bring in and pay unto the treasurer hereinafter directed to be appointed all such sums of money as he or they shall have received, and shall pay the whole and every of the sums of money assessed in his or their duplicates within six months next after the day of appeal (such deficiencies as the said commissioners or any four of them shall allow being first deducted) and the said treasurer shall give receipts to the collectors for what they shall so bring in and pay from time to time, which receipts shall be the collector's discharges for so much, and the said treasurer shall from time to time signify in writing to the said commissioners how much every collector brings in and pays as aforesaid, and when the said collectors, or any of them, are negligent or refuse to do their duty in the premises, the treasurer is hereby required forthwith to signify the same by way of complaint to the commissioners aforesaid.

[Section XXI.] And be it further enacted by the authority aforesaid, That if upon complaint of the treasurer to the commissioners it shall appear that the said collector or collectors, having taken upon him or themselves the duties enjoined him or them by this act, shall refuse or neglect to pay the said sums of money which he or they shall be respectively charged to collect within the times limited by this act, every such collector so refusing or neglecting shall forfeit and pay to the treasurer the sum of five pounds, and shall also pay all the arrearages of such assessment which he was appointed to collect, to be levied by a warrant under the hands and seals of the said commissioners, or any four of them, directed to the sheriff of the city and county of Philadelphia, who is hereby authorized and em-

powered to execute such warrant upon the goods and chattels of such collector or collectors; and in case goods and chattels sufficient cannot be found, then to imprison such collector or collectors until payment be made, and every collector so distrained on, having made full satisfaction as aforesaid, is hereby empowered, without any further warrant, to distrain for his own use upon all such as shall neglect or refuse to pay him the arrearages due.

And the said collector or collectors shall, for his or their trouble and service by this act required and enjoined, retain in his or their hands six pence per pound for all sums of money by him or them respectively collected; and if the said collector or collectors shall refuse or neglect to take upon him or themselves the trust and duty required of him or them, he or they shall forfeit and pay to the treasurer hereinafter mentioned the sum of five pounds, and the said assessors shall appoint some other fit person or persons in the place or stead of the collector or collectors so refusing or neglecting as aforesaid.

[Section XXII.] And be it further enacted by the authority aforesaid, That if any of the said commissioners appointed by this act or those who shall be chosen to succeed them in the said trust shall refuse or neglect to take upon him or themselves the services and duties required of him or them, he or they so refusing or neglecting shall pay to the treasurer aforesaid, ten pounds; or if any of the said commissioners shall happen to die during the time for which they are appointed or chosen, the other commissioners and assessors for the time being, or a majority of them, shall, in every such case, appoint one or more fit person or persons in place and stead of the commissioner or commissioners so refusing or dying.

And the said commissioners, for the services required and enjoined them by this act, shall be paid by the treasurer five shillings each for each day's attendance on that particular service, which shall be to the commissioners for the time being in full satisfaction for all the attendance and services required of them by this act.

[Section XXIII.] And be it further enacted by the authority aforesaid. That the said commissioners for the time being, or the

major part of them, are hereby empowered and required, as often as there may be occasion during the continuance of this act, to choose a treasurer, which treasurer when so chosen is hereby empowered and required to receive all the money arising as well from the said assessments as also the fines and forfeitures imposed and other moneys arising by virtue of this act; and the said treasurer shall keep a distinct and fair account, in a book to be provided by him for that purpose, of all the rates and assessments made or to be made as aforesaid, and also of all moneys by him so received and also of all disbursements and payments he shall make by orders from the commissioners, or any four of them, whose order to the said treasurer from time to time shall be sufficient discharges for the payment of such moneys as shall come to his hands, which orders the said commissioners, or any four of them, are hereby authorized and empowered to draw from time to time for the uses and purposes in this act mentioned and specified.

[Section XXIV.] And be it further enacted by the authority aforesaid, That the said treasurer for the time being, before he enters upon the execution of the said office, is hereby required to give a bond with one or more sufficient sureties to the said commissioners, to be by them approved of, in the penalty of five hundred pounds lawful money of this province, with condition for the payment of all such moneys which shall come to his hands by virtue of this act according to the orders drawn on him as aforesaid from time to time and not otherwise and for the due performance of his duty in the trust hereby committed to him, and the said treasurer shall yearly bring in his accounts and settle the same with the commissioners aforesaid, or a majority of them; which said accounts so settled and adjusted shall be laid before the mayor, recorder, aldermen and grand jury of the said city at the general quarter sessions of the peace to be held for the said city in the month of January yearly, together with the books, receipts and vouchers, if required, which said accounts, books, receipts and vouchers, being examined by the mayor, recorder, aldermen and grand jury aforesaid, shall [be] delivered back safely without alteration to the said treasurer, and a true copy of the said accounts to be made out by the said treasurer and delivered to the court shall be filed and

kept among the records of the said court. And the said treasurer shall be allowed for his trouble in keeping such accounts and receiving and paying all such money as shall come into his hands by virtue of this act at the rate of six pence in the pound.

[Section XXV.] And be it further enacted by the authority aforesaid, That if the said treasurer shall refuse or neglect to do his duty as by this act is required, he shall be removed from his said office by any four or more of the said commissioners, and in case of such removal or if the said treasurer shall happen to die, the commissioners, or the major part of them, shall appoint another in his place, who shall give security as hereinbefore directed, and the treasurer so removed or the executors or adminstrators of the said treasurer so dying shall deliver to the succeeding treasurer all books, public accounts and papers belonging to the said office whole and entire and undefaced, and shall likewise pay to the said succeeding treasurer all such sum and sums of money as he may have received or have been paid to him in pursuance of this act under the penalty of two hundred pounds, to be recovered in the manner and to the uses hereinafter mentioned.

[Section XXVI.] And be it further enacted by the authority aforesaid, That all the penalties, fines and forfeitures to become due and payable by this act, the manner of levying and recovering of which is not before directed, if they do not exceed the sum of five pounds, shall be recovered before one of the justices of the peace of and for the said city and shall be levied by warrant under the hand and seal of such justice or of any other justice of the peace of and for the said city to any constable of the said city directed, who is hereby empowered and required to execute the same by distress and sale of the goods and chattels of the offender, and where goods and chattels sufficient cannot be found, then the party or parties offending shall be committed to the common gaol of the said city, there to remain until payment made, and if such penalties, fines and forfeitures do exceed the sum of five pounds, then to be recovered by action of debt, bill, plaint or information in any county court within this province, wherein [no] essoin, protection or wager of law to be allowed, all which recoveries shall be had in the name of and by the treasurer aforesaid for the time being, to whom the sums recovered shall be paid, to be by him applied towards defraying and paying the charges and expenses arising by virtue of this act, to be recovered with costs of suit.

Provided always, That if any person or persons be sued or prosecuted for anything done in pursuance of this act, he or they may plead the general issue and give this act and special matter in evidence for their justification, and if the plaintiff or prosecutor become nonsuit or forbear prosecution or suffer discontinuance, or if a verdict pass against him or them in such action or suit, the defendant shall have treble costs, to be recovered as in cases where costs by law are given to defendants.

[Section XXVII.] And be it further enacted by the authority aforesaid, That in case there be any deficiency in any one year's rate or assessment to be made as aforesaid, so that all the wages and allowances for the purposes herein mentioned and other incident charges cannot be fully paid and satisfied in that year, then, and in such case, the deficiency so happening shall be paid out of the next succeeding year's rate or assessment; and if there shall happen to be any overplus money collected by such rates and assessments in any one year such surplus shall be carried on to the credit of the account of the next year's rate or assessment, to be applied to such use and in such manner as the rates and assessments to be collected are directed by this act to be laid out and applied.

[Section XXVIII.] And be it enacted, &c., That nothing in a certain act of assembly passed in the present year of His Majesty's reign, entitled "An act for opening and better amending and keeping in repair the public roads and highways within this province," shall be deemed, construed and taken to extend to the public highways, streets, lanes and alleys within the said city nor to the laying or assessing the inhabitants thereof for the purposes therein mentioned, nor to any other matter or thing to be done and performed within the same, but the said act, so far as it relates to or respects the said city and the highways within the same and no further, is hereby declared to be repealed, null and void to all intents and purposes whatsoever.

<sup>1</sup> Passed February 17, 1762, Chapter 479.

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I come to a secretary the land adjoining to and was ded by the confinentment tounds of the first of Philadelphia, with any at frost a grover in the said out, and running thence sorry to make a course of the read formerly enlief the Passyear front the state water two limited and ninety-six process on a secret, thence worth from the degrees east to a road to led the Mogamenting Road thence along a lane known "11 "66 6266 64 Keeler's lane to Green with Road, thence east to the state from mass, thence up the several courses of the said Place to Booth wrest, and thence along the south side of the said street to the place of beginning; on which said tract of land the time is and passessors thereof have built and erected, at a very great expense, a large number of houses, messuages, wharves, stores and other buildings, and have continued, by agreements nmong themselves made, the several streets of the said city running north and south through part of the said improved ground and have also opened, in the same manner, cross streets running wertward from the said river towards the river Schuylkill with many convenient roads, lanes and alleys leading to and from the said streets; but as the said roads, streets, lanes and alleys are not laid out and confirmed by any legal authority, ill-disposed persons have frequently committed nuisances therein, to the great annoyance, impediment and disturbance of the inhabitants passing through them on their lawful occasions:

For remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton. Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said tract of land before described shall be henceforth called The District of Southwark, and is hereby declared to be allotted and divided off into one district, and that all and every of the streets, lanes, alleys and roads laid out by agreement as aforesaid shall be and are hereby declared to be public streets, roads, alleys and lanes forever to all intents and purposes as if the same had been public roads and highways laid out according to law by order of the governor and council or by order of any court of quarter sessions in this province; and that all and every nuisance or nuisances committed in them, or any of them, shall and may be heard, tried and determined in the county court of quarter sessions in and for the county of Philadelphia in the same and as full and ample a manner as any nuisance committed in any public highway in the said county may and ought to be heard, tried and determined.

And in order that the said streets, alleys, lanes and roads and such others as shall be hereafter laid out may be duly regulated, made, opened, amended and repaired:

[Section II.] Be it enacted by the authority aforesaid, That it shall and may be lawful for the freeholders and others within the said district qualified by law to elect members of assembly to meet together on the third Saturday in the month of April in every year, and between the hours of ten in the forenoon and four in the afternoon, choose by tickets in writing three surveyors or regulators of the said streets, lanes and alleys, who, upon

application made to them shall have full power and authority to regulate and lay out the proper gutters, channels and conduits for the carrying off the waters in the said district, and to enter upon the lands of any person or persons in order to set out the foundation and to regulate walls to be built between party and party within the said district as to the breadth and thickness thereof; which foundations shall be equally laid upon the lands of the persons between whom such party wall is to be made, and the first builder shall be reimbursed one moiety of the charge of such party wall or for so much thereof as the next builder shall have occasion to make use of before he shall in any wise use or break into the said wall, and that the charge or value thereof shall be set by the said regulators, or any two of them.

[Section III.] And be it further enacted by the authority aforesaid, That if any person or persons shall begin or lay the foundation of any party wall before the same be viewed and directed by the said regulators or some two of them, every such person, as well employer as master builder, shall forfeit the sum of five pounds, to be paid to the overseers of the poor in said district for the use of the poor thereof, being of the said offense first convicted in the couty court of quarter sessions of the county of Philadelphia aforesaid.

[Section IV.] Provided always and be it further enacted by the authority aforesaid, That if either party between whom such foundation or party wall is to be made shall find themselves anyways aggrieved by any order or direction of the said regulators, he or they may appeal to the justices at the next court of quarter sessions to be held for the said county, who shall finally adjust and settle the same, the costs of which appeal shall be paid as the said court shall direct and appoint.

[Section V.] And be it further enacted by the authority aforesaid, That the said regulators or surveyors attending the said service for their trouble shall be paid by the party or parties concerned in erecting such party wall the sum of six shillings [each] and no more.

And for the preventing of accidents that may happen by fire in the said district:

[Section VI.] Be it enacted by the authority aforesaid, That if any person or persons within the said district shall set on fire his or their chimney or chimneys to cleanse them or shall suffer the same to be done, or that shall suffer any of them to blaze out at the top, and be thereof legally convicted before any justice of the peace of the county of Philadelphia, such person or persons shall forfeit and pay the sum of twenty shillings to the overseers of the poor of the said district for the use of the poor thereof.

[Section VII.] And be it further enacted by the authority aforesaid, That from and after the publication of this act no unhealthy or sickly vessel shall come nearer than one mile to the southern bounds of the said district without bills of health, nor shall presume to bring to shore such vessels nor to land their passengers or their goods at any part of the said district until they shall obtain a license for their landing from the governor for the time being and his council or from any two justices of the peace for the county of Philadelphia, under the penalty of ten pounds for every passenger so landed and one [hundred] pounds for every vessel so brought within a mile of the bounds aforesaid, to be paid by the commander, merchants or owners of the said vessel offending in the premises, being first legally convicted thereof in the county court of quarter sessions for the county of Philadelphia, one-half thereof to be paid to the governor for the support of government, the other half to the overseers of the poor of the said district for the time being for the use of the poor thereof.

[Section VIII.] And be it enacted by the authority aforesaid, That if any person or persons shall presume to stop any of the said streets, lanes, alleys or public roads heretofore laid out [or hereafter laid out] and confirmed as aforesaid, or shall commit any nuisance therein and shall not remove the same forthwith, every such person or persons so offending, being thereof legally convicted in the said court, shall forfeit and pay the sum of three pounds to the supervisors of the streets and highways aforesaid, to be laid out in repairing the same.

[Section IX.] And be it further enacted by the authority aforesaid, That the said freeholders and others qualified as aforesaid shall, on the same day whereon they are hereinbefore

directed to choose surveyors and regulators of the streets, lanes and alleys aforesaid choose in the same manner three assessors and three supervisors of the public highways within the said district, which said assessors and supervisors when chosen and returned in writing under the hands of any two freeholders of the said district into the office of the clerk of the county court of quarter sessions aforesaid shall be the assessors of the said district and the supervisors of the streets, lanes, alleys, roads and highways thereof for the ensuing year; and if any supervisor so elected or otherwise appointed by virtue of this act shall refuse to take upon himself the said office, for every such offense he shall forfeit and pay the sum of ten pounds, to be applied towards amending and repairing the said streets, lanes, alleys and highways.

[Section X.] And be it further enacted by the authority aforesaid, That the overseers of the roads in the said township the first year and the supervisors of the streets, lanes, alleys and highways of the said district forever afterwards, shall, at least five days before the third Saturday in April yearly and every year give public notice in writing by affixing the same in the most public places in the said district of the place where the inhabitants and freeholders of the said district shall meet to elect supervisors for the said district according to the directions of this act, which place so appointed for the said election shall be as near the centre of the said district as conveniently may be.

[Section XI.] And be it further enacted by the authority aforesaid. That it shall and may be lawful for the said supervisors of the public streets and highways, together with the assessors of the said district for the time being, to make or lay a rate or assessment not exceeding three pence in the pound clear value of the real and personal estates of all and every the freeholders and inhabitants within the said district, to be employed for the amending and repairing the streets, lanes, alleys and highways within the said district in such manner as by this act is directed and appointed.

Provided nevertheless, That the said rate or assessment shall be laid according to the best of their skill and judgment and as near as may be to the county assessment for other purposes laid in pursuance of the act, entitled "An act for laying county rates and levies," having due regard to every man's estate within the said district, without favor or affection to any person whomsoever.

[Section XII.] And be it further enacted by the authority aforesaid, That if any supervisor or supervisors of the public streets and highways so as aforesaid chosen shall refuse or neglect to take upon him or themselves the said office or shall die or remove out of the said district for which he or they shall be chosen, or if the freeholders and inhabitants of the district aforesaid shall neglect or refuse to elect or choose supervisors as is hereinbefore directed and appointed, then and in every such case it shall and may be lawful to and for the justices of the county court of quarter sessions of the county of Philadelphia, and they are hereby enjoined and required to appoint another supervisor or supervisors in the room and stead of every such supervisor or supervisors so refusing, dying or removing as aforesaid or so neglecting to be chosen as aforesaid, which said supervisor or supervisors so appointed shall have the same powers and authorities and shall be liable to the same penalties as the supervisors so appointed and chosen by the said district in pursuance of the directions of this act, and that each supervisor shall have and receive for his trouble in collecting the several sums of money to be raised as aforesaid six pence in every pound by him collected and five shillings per diem for each day he shall attend in overseeing, employing and attending the workmen upon the public streets and highways within said district.

[Section XIII.] And be it further enacted by the authority aforesaid, That the said supervisors, before they proceed to the collecting of the said rate, shall procure the same to be allowed by at least two justices of the peace of the said county of Philadelphia, and if any person or persons so rated or assessed shall refuse to pay the sum or sums on him or them charged, and shall not enter his or their appeal at the next general court of quarter sessions aforesaid, that then it shall and may be lawful to and for the said supervisor or supervisors (having first obtained a warrant under the hand and seal of one justice of the

<sup>&</sup>lt;sup>1</sup> Passed March 20, 1724-25, Chapter 284.

powered to execute such warrant upon the goods and chattels of such collector or collectors; and in case goods and chattels sufficient cannot be found, then to imprison such collector or collectors until payment be made, and every collector so distrained on, having made full satisfaction as aforesaid, is hereby empowered, without any further warrant, to distrain for his own use upon all such as shall neglect or refuse to pay him the arrearages due.

And the said collector or collectors shall, for his or their trouble and service by this act required and enjoined, retain in his or their hands six pence per pound for all sums of money by him or them respectively collected; and if the said collector or collectors shall refuse or neglect to take upon him or themselves the trust and duty required of him or them, he or they shall forfeit and pay to the treasurer hereinafter mentioned the sum of five pounds, and the said assessors shall appoint some other fit person or persons in the place or stead of the collector or collectors so refusing or neglecting as aforesaid.

[Section XXII.] And be it further enacted by the authority aforesaid, That if any of the said commissioners appointed by this act or those who shall be chosen to succeed them in the said trust shall refuse or neglect to take upon him or themselves the services and duties required of him or them, he or they so refusing or neglecting shall pay to the treasurer aforesaid, ten pounds; or if any of the said commissioners shall happen to die during the time for which they are appointed or chosen, the other commissioners and assessors for the time being, or a majority of them, shall, in every such case, appoint one or more fit person or persons in place and stead of the commissioner or commissioners so refusing or dying.

And the said commissioners, for the services required and enjoined them by this act, shall be paid by the treasurer five shillings each for each day's attendance on that particular service, which shall be to the commissioners for the time being in full satisfaction for all the attendance and services required of them by this act.

[Section XXIII.] And be it further enacted by the authority aforesaid, That the said commissioners for the time being, or the

major part of them, are hereby empowered and required, as often as there may be occasion during the continuance of this act, to choose a treasurer, which treasurer when so chosen is hereby empowered and required to receive all the money arising as well from the said assessments as also the fines and forfeitures imposed and other moneys arising by virtue of this act; and the said treasurer shall keep a distinct and fair account, in a book to be provided by him for that purpose, of all the rates and assessments made or to be made as aforesaid, and also of all moneys by him so received and also of all disbursements and payments he shall make by orders from the commissioners, or any four of them, whose order to the said treasurer from time to time shall be sufficient discharges for the payment of such moneys as shall come to his hands, which orders the said commissioners, or any four of them, are hereby authorized and empowered to draw from time to time for the uses and purposes in this act mentioned and specified.

[Section XXIV.] And be it further enacted by the authority aforesaid, That the said treasurer for the time being, before he enters upon the execution of the said office, is hereby required to give a bond with one or more sufficient sureties to the said commissioners, to be by them approved of, in the penalty of five hundred pounds lawful money of this province, with condition for the payment of all such moneys which shall come to his hands by virtue of this act according to the orders drawn on him as aforesaid from time to time and not otherwise and for the due performance of his duty in the trust hereby committed to him, and the said treasurer shall yearly bring in his accounts and settle the same with the commissioners aforesaid, or a majority of them; which said accounts so settled and adjusted shall be laid before the mayor, recorder, aldermen and grand jury of the said city at the general quarter sessions of the peace to be held for the said city in the month of January yearly, together with the books, receipts and vouchers, if required, which said accounts, books, receipts and vouchers, being examined by the mayor, recorder, aldermen and grand jury aforesaid, shall [be] delivered back safely without alteration to the said treasurer, and a true copy of the said accounts to be made out by the said treasurer and delivered to the court shall be filed and

kept among the records of the said court. And the said treasurer shall be allowed for his trouble in keeping such accounts and receiving and paying all such money as shall come into his hands by virtue of this act at the rate of six pence in the pound.

[Section XXV.] And be it further enacted by the authority aforesaid, That if the said treasurer shall refuse or neglect to do his duty as by this act is required, he shall be removed from his said office by any four or more of the said commissioners, and in case of such removal or if the said treasurer shall happen to die, the commissioners, or the major part of them, shall appoint another in his place, who shall give security as hereinbefore directed, and the treasurer so removed or the executors or adminstrators of the said treasurer so dying shall deliver to the succeeding treasurer all books, public accounts and papers belonging to the said office whole and entire and undefaced, and shall likewise pay to the said succeeding treasurer all such sum and sums of money as he may have received or have been paid to him in pursuance of this act under the penalty of two hundred pounds, to be recovered in the manner and to the uses hereinafter mentioned.

[Section XXVI.] And be it further enacted by the authority aforesaid, That all the penalties, fines and forfeitures to become due and payable by this act, the manner of levying and recovering of which is not before directed, if they do not exceed the sum of five pounds, shall be recovered before one of the justices of the peace of and for the said city and shall be levied by warrant under the hand and seal of such justice or of any other justice of the peace of and for the said city to any constable of the said city directed, who is hereby empowered and required to execute the same by distress and sale of the goods and chattels of the offender, and where goods and chattels sufficient cannot be found, then the party or parties offending shall be committed to the common gaol of the said city, there to remain until payment made, and if such penalties, fines and forfeitures do exceed the sum of five pounds, then to be recovered by action of debt, bill, plaint or information in any county court within this province, wherein [no] essoin, protection or wager of law to be allowed, all which recoveries shall be had in the name of and by the treasurer aforesaid for the time being, to whom the sums recovered shall be paid, to be by him applied towards defraying and paying the charges and expenses arising by virtue of this act, to be recovered with costs of suit.

Provided always, That if any person or persons be sued or prosecuted for anything done in pursuance of this act, he or they may plead the general issue and give this act and special matter in evidence for their justification, and if the plaintiff or prosecutor become nonsuit or forbear prosecution or suffer discontinuance, or if a verdict pass against him or them in such action or suit, the defendant shall have treble costs, to be recovered as in cases where costs by law are given to defendants.

[Section XXVII.] And be it further enacted by the authority aforesaid, That in case there be any deficiency in any one year's rate or assessment to be made as aforesaid, so that all the wages and allowances for the purposes herein mentioned and other incident charges cannot be fully paid and satisfied in that year, then, and in such case, the deficiency so happening shall be paid out of the next succeeding year's rate or assessment; and if there shall happen to be any overplus money collected by such rates and assessments in any one year such surplus shall be carried on to the credit of the account of the next year's rate or assessment, to be applied to such use and in such manner as the rates and assessments to be collected are directed by this act to be laid out and applied.

[Section XXVIII.] And be it enacted, &c., That nothing in a certain act of assembly passed in the present year of His Majesty's reign, entitled "An act for opening and better amending and keeping in repair the public roads and highways within this province," shall be deemed, construed and taken to extend to the public highways, streets, lanes and alleys within the said city nor to the laying or assessing the inhabitants thereof for the purposes therein mentioned, nor to any other matter or thing to be done and performed within the same, but the said act, so far as it relates to or respects the said city and the highways within the same and no further, is hereby declared to be repealed, null and void to all intents and purposes whatsoever.

<sup>1</sup> Passed February 17, 1762, Chapter 479.

Provided always, That this act continue in force for the space of seven years, and from thence to the end of the next sessions of assembly and no longer.

Passed March 26, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Acts of Assembly passed March 4, 1763. Chapter 485; September 30, 1763, Chapter 503; February 15, 1765. Chapter 524; February 8, 1766, Chapter 537; February 21, 1767, Chapter 554. Repealed by the Act of Assembly passed February 18. 1769, Chapter 594.

## CHAPTER CCCCLXXXI.

AN ACT FOR ERECTING THE SOUTHERN SUBURBS OF THE CITY OF PHILADELPHIA INTO THE DISTRICT OF SOUTHWARK, FOR MAKING THE STREETS AND ROADS ALREADY LAID OUT THEREIN PUBLIC ROADS AND HIGHWAYS, AND FOR REGULATING SUCH OTHER STREETS AND ROADS AS THE INHABITANTS THEREOF MAY HERE-AFTER LAY OUT, AND FOR OTHER USES AND PURPOSES THEREIN MENTIONED.

Whereas there is a certain tract of land adjoining to and bounded by the southernmost bounds of the city of Philadelphia, beginning at South street, in the said city, and running thence along the several courses of the road formerly called the Passyunk Road, including the same, two hundred and ninety-six perches to a corner, thence south forty-five degrees east to a road called the Moyamensing Road, thence along a lane known by the name of Keeler's Lane to Greenwich Road, thence east to the river Delaware, thence up the several courses of the said river to South street, and thence along the south side of the said street to the place of beginning; on which said tract of land the owners and possessors thereof have built and erected, at a very great expense, a large number of houses, messuages, wharves, stores and other buildings, and have continued, by agreements among themselves made, the several streets of the said city running north and south through part of the said improved ground and have also opened, in the same manner, cross streets running westward from the said river towards the river Schuylkill with

many convenient roads, lanes and alleys leading to and from the said streets; but as the said roads, streets, lanes and alleys are not laid out and confirmed by any legal authority, ill-disposed persons have frequently committed nuisances therein, to the great annoyance, impediment and disturbance of the inhabitants passing through them on their lawful occasions:

For remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said tract of land before described shall be henceforth called The District of Southwark, and is hereby declared to be allotted and divided off into one district, and that all and every of the streets, lanes, alleys and roads laid out by agreement as aforesaid shall be and are hereby declared to be public streets, roads, alleys and lanes forever to all intents and purposes as if the same had been public roads and highways laid out according to law by order of the governor and council or by order of any court of quarter sessions in this province; and that all and every nuisance or nuisances committed in them, or any of them, shall and may be heard, tried and determined in the county court of quarter sessions in and for the county of Philadelphia in the same and as full and ample a manner as any nuisance committed in any public highway in the said county may and ought to be heard, tried and determined.

And in order that the said streets, alleys, lanes and roads and such others as shall be hereafter laid out may be duly regulated, made, opened, amended and repaired:

[Section II.] Be it enacted by the authority aforesaid, That it shall and may be lawful for the freeholders and others within the said district qualified by law to elect members of assembly to meet together on the third Saturday in the month of April in every year, and between the hours of ten in the forenoon and four in the afternoon, choose by tickets in writing three surveyors or regulators of the said streets, lanes and alleys, who, upon

application made to them shall have full power and authority to regulate and lay out the proper gutters, channels and conduits for the carrying off the waters in the said district, and to enter upon the lands of any person or persons in order to set out the foundation and to regulate walls to be built between party and party within the said district as to the breadth and thickness thereof; which foundations shall be equally laid upon the lands of the persons between whom such party wall is to be made, and the first builder shall be reimbursed one moiety of the charge of such party wall or for so much thereof as the next builder shall have occasion to make use of before he shall in any wise use or break into the said wall, and that the charge or value thereof shall be set by the said regulators, or any two of them.

[Section III.] And be it further enacted by the authority aforesaid, That if any person or persons shall begin or lay the foundation of any party wall before the same be viewed and directed by the said regulators or some two of them, every such person, as well employer as master builder, shall forfeit the sum of five pounds, to be paid to the overseers of the poor in said district for the use of the poor thereof, being of the said offense first convicted in the couty court of quarter sessions of the county of Philadelphia aforesaid.

[Section IV.] Provided always and be it further enacted by the authority aforesaid, That if either party between whom such foundation or party wall is to be made shall find themselves anyways aggrieved by any order or direction of the said regulators, he or they may appeal to the justices at the next court of quarter sessions to be held for the said county, who shall finally adjust and settle the same, the costs of which appeal shall be paid as the said court shall direct and appoint.

[Section V.] And be it further enacted by the authority aforesaid, That the said regulators or surveyors attending the said service for their trouble shall be paid by the party or parties concerned in erecting such party wall the sum of six shillings [each] and no more.

And for the preventing of accidents that may happen by fire in the said district: [Section VI.] Be it enacted by the authority aforesaid, That if any person or persons within the said district shall set on fire his or their chimney or chimneys to cleanse them or shall suffer the same to be done, or that shall suffer any of them to blaze out at the top, and be thereof legally convicted before any justice of the peace of the county of Philadelphia, such person or persons shall forfeit and pay the sum of twenty shillings to the overseers of the poor of the said district for the use of the poor thereof.

[Section VII.] And be it further enacted by the authority aforesaid. That from and after the publication of this act no unhealthy or sickly vessel shall come nearer than one mile to the southern bounds of the said district without bills of health, nor shall presume to bring to shore such vessels nor to land their passengers or their goods at any part of the said district until they shall obtain a license for their landing from the governor for the time being and his council or from any two justices of the peace for the county of Philadelphia, under the penalty of ten pounds for every passenger so landed and one [hundred] pounds for every vessel so brought within a mile of the bounds aforesaid, to be paid by the commander, merchants or owners of the said vessel offending in the premises, being first legally convicted thereof in the county court of quarter sessions for the county of Philadelphia, one-half thereof to be paid to the governor for the support of government, the other half to the overseers of the poor of the said district for the time being for the use of the poor thereof.

[Section VIII.] And be it enacted by the authority aforesaid, That if any person or persons shall presume to stop any of the said streets, lanes, alleys or public roads heretofore laid out [or hereafter laid out] and confirmed as aforesaid, or shall commit any nuisance therein and shall not remove the same forthwith, every such person or persons so offending, being thereof legally convicted in the said court, shall forfeit and pay the sum of three pounds to the supervisors of the streets and highways aforesaid, to be laid out in repairing the same.

[Section IX.] And be it further enacted by the authority aforesaid, That the said freeholders and others qualified as aforesaid shall, on the same day whereon they are hereinbefore

directed to choose surveyors and regulators of the streets, lanes and alleys aforesaid choose in the same manner three assessors and three supervisors of the public highways within the said district, which said assessors and supervisors when chosen and returned in writing under the hands of any two freeholders of the said district into the office of the clerk of the county court of quarter sessions aforesaid shall be the assessors of the said district and the supervisors of the streets, lanes, alleys, roads and highways thereof for the ensuing year; and if any supervisor so elected or otherwise appointed by virtue of this act shall refuse to take upon himself the said office, for every such offense he shall forfeit and pay the sum of ten pounds, to be applied towards amending and repairing the said streets, lanes, alleys and highways.

[Section X.] And be it further enacted by the authority aforesaid, That the overseers of the roads in the said township the first year and the supervisors of the streets, lanes, alleys and highways of the said district forever afterwards, shall, at least five days before the third Saturday in April yearly and every year give public notice in writing by affixing the same in the most public places in the said district of the place where the inhabitants and freeholders of the said district shall meet to elect supervisors for the said district according to the directions of this act, which place so appointed for the said election shall be as near the centre of the said district as conveniently may be.

[Section XI.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said supervisors of the public streets and highways, together with the assessors of the said district for the time being, to make or lay a rate or assessment not exceeding three pence in the pound clear value of the real and personal estates of all and every the freeholders and inhabitants within the said district, to be employed for the amending and repairing the streets, lanes, alleys and highways within the said district in such manner as by this act is directed and appointed.

Provided nevertheless, That the said rate or assessment shall be laid according to the best of their skill and judgment and as near as may be to the county assessment for other purposes laid in pursuance of the act, entitled "An act for laying county rates and levies," having due regard to every man's estate within the said district, without favor or affection to any person whomsoever.

[Section XII.] And be it further enacted by the authority aforesaid, That if any supervisor or supervisors of the public streets and highways so as aforesaid chosen shall refuse or neglect to take upon him or themselves the said office or shall die or remove out of the said district for which he or they shall be chosen, or if the freeholders and inhabitants of the district aforesaid shall neglect or refuse to elect or choose supervisors as is hereinbefore directed and appointed, then and in every such case it shall and may be lawful to and for the justices of the county court of quarter sessions of the county of Philadelphia, and they are hereby enjoined and required to appoint another supervisor or supervisors in the room and stead of every such supervisor or supervisors so refusing, dying or removing as aforesaid or so neglecting to be chosen as aforesaid, which said supervisor or supervisors so appointed shall have the same powers and authorities and shall be liable to the same penalties as the supervisors so appointed and chosen by the said district in pursuance of the directions of this act, and that each supervisor shall have and receive for his trouble in collecting the several sums of money to be raised as aforesaid six pence in every pound by him collected and five shillings per diem for each day he shall attend in overseeing, employing and attending the workmen upon the public streets and highways within said district.

[Section XIII.] And be it further enacted by the authority aforesaid, That the said supervisors, before they proceed to the collecting of the said rate, shall procure the same to be allowed by at least two justices of the peace of the said county of Philadelphia, and if any person or persons so rated or assessed shall refuse to pay the sum or sums on him or them charged, and shall not enter his or their appeal at the next general court of quarter sessions aforesaid, that then it shall and may be lawful to and for the said supervisor or supervisors (having first obtained a warrant under the hand and seal of one justice of the

<sup>1</sup> Passed March 20, 1724-25, Chapter 284.

peace of the said county, who is hereby empowered and required to grant such warrant) to levy the same on the goods and chattels of the person or persons so refusing; and in case such person shall not, within three days next after such distress made, pay the sum or sums on him or her assessed, together with the charges of such distress, that then the supervisors, or either of them, may proceed to the sale of the goods distrained, rendering to the owner the overplus, if any, that shall remain on such sale, reasonable charges being first deducted.

Provided nevertheless, That if any person or persons shall find him, her or themselves aggrieved with such rate or assessment, it shall be lawful for the justices of the peace [aforesaid], at their next general quarter sessions, upon the petition of the party, to take such order therein as to them shall be thought expedient, and the same shall conclude and bind all parties, and the supervisor and supervisors, in case of such appeal, shall forbear making distress until the same be determined in the quarter sessions in the manner hereinbefore directed and appointed.

[Section XIV.] And be it further enacted by the authority aforesaid, That the said supervisors of the public streets and highways of the said district shall and they are hereby enjoined and required, as often as the said several streets, lanes, alleys and highways within the said district shall be out of repair, to hire and employ a sufficient number of laborers to work upon, open, amend, clear and repair the same in the most effectual manner, and to purchase wood and all other materials necessary for that purpose, and to overlook the said laborers and see that the said streets, lanes, alleys, roads and highways be effectually opened, cleared, amended and repaired according to the true intent and meaning of this act.

[Section XV.] And be it further enacted by the authority aforesaid, That if any person working on the highways within the said district or being with them shall ask any money, drink or any other reward whatsoever, or shall by any contrivance, ways or means whatsoever extort any money or other thing of or from any person passing or travelling upon the said public roads or highways, he or she shall, for every such offense, pay to

the supervisor or supervisors of the said district the sum of three shillings [to be recovered by the said supervisors respectively in a summary way before any justice of the peace and applied for and towards repairing the said roads, and in case any supervisor shall connive at any persons asking and demanding any reward from any traveller as aforesaid, every such supervisor shall forfeit and pay for each offense the sum of twenty shillings] to be recovered by any person whatsoever in manner aforesaid, one-half to the use of the prosecutor and the other half to and for the service of the said roads.

[Section XVI.] And be it further enacted by the authority aforesaid, That all and every supervisor or supervisors of the public roads and highways within the said district who shall be convicted of having refused or neglected to do and perform his or their duty as directed by this act (not otherwise particularly provided for) shall be fined and shall pay the sum of five pounds for every such offense, to be applied towards repairing the public roads and highways within the said district.

[Section XVII.] And be it further enacted by the authority aforesaid. That the justices of the peace of the county of Philadelphia, or any three of them, shall and may, at the time and times when new supervisors of the highways within the said district are [to be appointed] annually examine and settle the accounts of the said supervisors going out of their office, and shall have full power to allow such accounts and sums only as to them shall seem just and reasonable, and to order the then last supervisors to pay the balances, together with the fines and penalties on themselves respectively and others which have come into their hands or been imposed by virtue of this act to the supervisors for the ensuing year; and in case the said supervisors on their going out of their respective offices shall be found to be in advance for moneys expended upon the public roads and highways within the said district as aforesaid, then the said justices may order the succeeding supervisors to repay and reimburse the former supervisors as soon as a sufficient sum of money shall have come into their hands; and in case of disobedience to any such of their orders the said justices may and shall from time to time grant attachments to compel obedience to the same.

[Section XVIII.] And be it enacted by the authority aforesaid, That two overseers of the poor, one assessor to join in assessments to be hereafter made towards sinking the sums of money heretofore granted to the King's use, and one inspector to be returned and if chosen to serve at the general election in and for the county of Philadelphia, shall be nominated and elected in and for the said district in the same manner as they are directed by law to be appointed and chosen in and for the several townships within this province, which said overseers so nominated and assessors and inspectors so elected shall have, use and exercise all and every the powers, rights and privileges and be subject to the same penalties and forfeitures within their said districts respectively which are lawfully had, used and exercised by the several overseers, assessors and inspectors of the several townships aforesaid to all intents and purposes as if they were respectively nominated and chosen overseers of the poor, assessors and inspectors of any of the townships aforesaid in pursuance of the laws of this province in such cases made and provided.

[Section XIX.] And be it enacted by the authority aforesaid, That nothing in a certain act of assembly passed in the present year of His Majesty's reign, entitled "An act for opening and better amending and keeping in repair the public roads and highways within this province," shall be deemed, construed or taken to extend to the public roads, streets, lanes or alleys within the said district nor to the levying or assessing the inhabitants thereof for the purposes therein mentioned, nor to any other matter or thing to be done and performed within the same, but the said act, so far as it relates to or respects the said district and no further, is hereby declared to be repealed, null and void to all intents and purposes.

Passed March 26, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II.

As to Section I, see the Acts of Assembly passed April 15, 1782,

<sup>1</sup> Passed February 17, 1762, Chapter 479.

Chapter 981; September 20, 1782, Chapter 991; April 18, 1794, Chapter 1742; March 27, 1795, Chapter 1814; February 13, 1796, Chapter 1872; March 7, 1799, Chapter 2024; February 13, 1802, P. L. 58; February 23, 1809, P. L. 25; March 28, 1814, P. L. 365; March 19, 1816, P. L. 195; March 29, 1827, P. L. 153; April 13, 1827, P. L. 277; March 7, 1829, P. L. 63; March 31, 1836, P. L. 308; March 8, 1839, P. L. 45; October 13, 1840, P. L. (1841) 1; March 5, 1841, P. L. 67; April 10, 1841, P. L. 167; April 8, 1842, P. L. 256; August 2, 1842, P. L. 458; March 11, 1843, P. L. 78; April 30, 1844, P. L. 533; March 14, 1845, P. L. 149; March 7, 1846, P. L. 86; February 19, 1849, P. L. 75; April 5, 1849, P. L. 344; April 15, 1850, P. L. 456; May 15, 1850, P. L. 762; March 29, 1851, P. L. 293; April 14, 1851, P. L. 572; February 2, 1854, P. L. 21.

As to Sections II-V, see the Acts of Assembly passed April 30, 1844, P. L. 533; May 2, 1853, P. L. 667.

As to Section VI, see the Acts of Assembly passed March 21, 1772, Chapter 648; November 25, 1779, Chapter 867; September 29, 1787, Chapter 1318.

As to Section VII, see the Act of Assembly passed January 22, 1774, Chapter 691.

As to Sections VIII-XIX, see the Acts of Assembly passed September 29, 1787, Chapter 1321; October 4, 1788, Chapter 1376; April 3, 1794, Chapter 1725; April 18, 1794, Chapter 1742; March 28, 1796, Chapter 1890; April 13, 1804, P. L. 507; April 7, 1807, P. L. 170; March 25, 1809, P. L. 200; March 31, 1812, P. L. 208; February 16, 1813, P. L. 66; March 26, 1813, P. L. 185; March 23, 1818, P. L. 257; February 24, 1820, P. L. 37; March 22, 1820, P. L. 98; March 27, 1820, P. L. 103; April 2, 1822, P. L. 227; April 1, 1823, P. L. 268; March 28, 1825, P. L. 128; April 22, 1829, P. L. 226; May 3, 1832, P. L. 432; May 5, 1832, P. L. 506; April 1, 1834, P. L. 181; April 10, 1834, P. L. 266; April 13, 1835, P. L. 202; April 15, 1835, P. L. 369; June 13, 1836, P. L. 551; April 1, 1837, P. L. 125; March 27, 1839, P. L. 189; April 30, 1844, P. L. 533; April 5, 1849, P. L. 344; April 9, 1849, P. L. 523; May 15, 1850, P. L. 762; (the two acts of) April 12, 1851, P. L. 418, 424; April 14, 1851, P. L. 572; May 1, 1852, P. L. 495; (the two acts of) May 4, 1852, P. L. 566, 569; April 6, 1853, P. L. 329; April 18, 1853, P. L. 627; May 2, 1853, P. L. 667; February 2, 1854, P. L. 21.

## CHAPTER CCCCLXXXII.

AN ACT TO ENABLE THE TRUSTEES OF THE STATE HOUSE TO PURCHASE CERTAIN LOTS OF GROUND, THE REMAINDER OF THE SQUARE WHEREON THE SAID HOUSE NOW STANDS.

Whereas in and by an act of assembly of this province passed in the first year of his present Majesty's reign, entitled "An act for appointing certain persons thereinafter named to apply for and receive the distributive shares and proportions which are or shall be allotted to this province out of the sum and sums of money granted by Parliament to His Majesty's Colonies in America," 1 it was enacted and provided that certain sums of money in the said act mentioned should be paid and discharged out of the bills of exchange directed to be drawn by the trustees of the general loan office by the said act on John Sargent, George Aufrere, David Barclay, junior, and John Barclay, merchants, in London; and that the said trustees should, towards sinking the sum and sums of money thentofore granted to His Majesty's use and in abatement of the taxes directed to be laid for that purpose pay and deliver all the remaining part of the money that should arise by the sale of such drafts or bills of exchange as they, the said trustees, were directed to draw by virtue of the said act into the hands of the committees of assembly who should be yearly appointed to settle [the] public accounts in bills of credit of this province, which bills of credit the said committees were thereby enjoined and required to burn, sink and destroy: And whereas in and by another act of assembly passed this present sitting, entitled "An act for granting to His Majesty the sum of twenty-three thousand five hundred pounds for the purposes therein mentioned," 2 the said sum of twenty-three thousand five hundred pounds was thereby directed to be retained by the said trustees out of the moneys so ordered by the said first recited act of assembly to be burnt, [sunk] and destroved, subject nevertheless to the drafts and orders and to the uses, intents and purposes mentioned and declared in and by the said last recited act of assembly. And whereas it is thought necessary for the public conveniency to purchase certain lots of ground adjoining the ground whereon the State House is now erected to and for the same uses, intents and purposes to which the said house and its appurtenances are appropriated:

[Section I.] Re it therefore enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of

<sup>1</sup> Passed September 26, 1761, Chapter 470.

<sup>&</sup>lt;sup>2</sup> Passed May 4. 1762, Chapter 483.

Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said trustees of the loan office, as soon as they shall have sold the said bills of exchange by virtue of the said act hereinbefore first recited and received the moneys arising thereby shall, out of the moneys so received and by the said first recited act ordered to be burnt, [sunk] and destroyed, retain and keep in their hands and possession the sum of five thousand pounds over and above the said sum of twenty-three thousand five hundred pounds granted to His Majesty, anything in the said recited acts of assembly, or either of them, to the contrary in any wise notwithstanding, subject, nevertheless to the orders and drafts of the trustees of the State House, or a majority of them, or of the survivors of them, for the time being.

[Section II.] And be it further enacted by the authority aforesaid, That the said trustees of the State House, or a majority of them, or of the survivors of them, shall apply, order and appoint the said sum of five thousand pounds, or so much thereof as shall be necessary for and towards purchasing all or any of the said lots of ground situate between Chestnut and Walnut streets and between the Fifth and Sixth streets in the city of Philadelphia not already purchased for the use of the province; and that the said trustees, or a majority of them, or of the survivors of them, shall and they are hereby authorized and empowered and required, after they have contracted and agreed for the said lots, to take and receive in their names one or more good and sufficient deed or deeds, conveyance or conveyances and assurances in the law for the perfect vesting and securing the said lots so purchased in them and the survivors of them and the heirs and assigns of the survivor of them as trustees for the uses hereinafter mentioned.

[Section III.] And be it further enacted by the authority aforesaid, That the said trustees, as soon as they shall have purchased the said lots of ground, or any of them, in pursuance of the directions of this act, the same, together with all [and] singular the immunities, improvements, advantages, hereditaments and appurtenances and the reversions and remainders

shall be settled upon and vested in the said trustees and the survivors of them and the heirs and assigns of such survivor forever; but, nevertheless, upon the same trust and to and for the same ends, intents and purposes and subject to the same uses to and for which the said State House, with its appurtenances, are in and by an act of assembly of this province passed in the present year of His Majesty's reign, entitled "An act for vesting the State House and other public buildings, with the lots of ground whereon the same are erected, together with two other lots situate in the city of Philadelphia, in trustees for the uses therein particularly mentioned," appointed, limited and declared, and to and for no other uses, intents and purposes whatsoever.

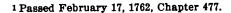
[Section IV.] And be it enacted by the authority aforesaid, That if there should happen to be and remain any surplus more than is sufficient to purchase the said lots of ground out of the said sum of five thousand pounds so as aforesaid directed to be retained by the said trustees of the loan office, all and every part of the said surplus shall be appropriated and applied by them in abatement of the public taxes of this government, and by the committees of assembly be accordingly burnt, sunk and destroyed.

Passed May 14, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed February 17, 1762, Chapter 477; and the Act of Assembly passed October 22, 1763, Chapter 505.

## CHAPTER CCCCLXXXIII.

AN ACT FOR GRANTING TO HIS MAJESTY THE SUM OF TWENTY-THREE THOUSAND FIVE HUNDRED POUNDS FOR THE PURPOSES THEREIN MENTIONED.

Whereas in and by an act of assembly of this province passed in the first year of His present Majesty's reign, entitled "An



act for appointing certain persons thereinafter named to apply for and receive the distributive shares and proportions which are or shall be allotted to this province out of the sum and sums of money granted or to be granted by Parliament to His Majesty's Colonies in America," 1 it was enacted and provided that certain sums of money in the said act mentioned should be paid and discharged out of the bills of exchange directed to be drawn by the trustees of the general loan office by the said act on John Sargent, George Aufrere, David Barclay, junior, and John Barclay, merchants, in London; and that the said trustees should, towards sinking the sum and sums of money thentofore granted to His Majesty's use and in abatement of the taxes directed to be laid for that purpose, pay and deliver all the remaining part of the money that should arise by the sale of such drafts or bills of exchange as they, the said trustees, were directed to draw by virtue of the said act into the hands of the committees of assembly who should be yearly appointed to settle the public accounts in bills of credit of this province, which bills of credit the said committees were thereby enjoined and required to burn, sink and destroy. But forasmuch as the present defenseless state of the city of Philadelphia in this time of imminent danger, occasioned by the wars between our Most Gracious Sovereign and the Courts of France and Spain, render it absolutely necessary that some further provision should be made for the protection of His Majesty's subjects within this province, and being desirous to afford that safety to the said city and the inhabitants thereof which their present defenseless situation may require, we, the representatives of the people, have given and granted and do hereby cheerfully and voluntarily give and grant unto His Majesty the sum of twenty-three thousand five hundred pounds for the uses and purposes hereinafter mentioned, and do pray that it may be enacted and

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of New castle, Kent and Sussex upon Delaware, by and with the advice



<sup>1</sup> Passed September 26, 1761, Chapter 470.

and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said trustees, as soon as they have sold the said bills of exchange by virtue of the act hereinbefore recited and received the moneys arising thereby, shall, out of the moneys so received as aforesaid and ordered by the said act to be burnt, sunk and destroyed retain and keep in their hands and possession, the sum of twenty-three thousand five hundred pounds hereby given and granted to His Majesty, and no more, anything in the said recited act to the contrary notwithstanding, subject nevertheless to the orders and drafts and to the several uses and purposes hereinafter mentioned and declared.

[Section II.] And be it further enacted by the authority aforesaid. That Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, Joseph Galloway, John Baynton and John Morton, Esquires, or the majority of them or of the survivors of them, with the consent and approbation of the governor or commander in chief for the time being and not otherwise, shall apply, order and appoint the disposition of the moneys granted by virtue of this act, fifteen thousand pounds, part thereof, for and towards raising, victualling, clothing and paying a number of officers and men to be used and employed in the protection and defense of the city of Philadelphia until the first day of November next [ensuing], and for and towards building and erecting such fortifications as may be necessary for the security of the city of l'hiladelphia and five thousand pounds more thereof for and towards defraying the expense of a certain treaty soon expected to be held with the northern and western Indians, and three thousand five hundred pounds more thereof towards paying such certificates as have been heretofore or shall be hereafter drawn by order of assembly for the incidental charges of this government for the current year not heretofore provided for and the salaries of the commissioners hereby nominated and appointed.

[Section III.] And be it further enacted by the authority aforesaid, That the said Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, Joseph Galloway, John Baynton and John Morton, or a majority of them [or of the survivors of them],

shall and they are hereby enjoined and required to draw orders on the trustees of the general loan office for the purposes aforesaid, the same purposes being severally first approved of and agreed to by the governor or commander in chief of this province for the time being, which orders so drawn the said trustees shall pay and discharge out of and with the moneys so directed as aforesaid to be retained by them, and when paid shall be produced to the committee of assembly for the time being and by them be allowed in discharge of so much of the moneys granted to the King's use by virtue of this act; and the said commissioners shall have and receive, out of the moneys arising by this act, to pay the incidental charges of government aforesaid, the sum of twenty-three pounds ten shillings each and no more for their trouble in discharging the duties of commissioners hereby required.

[Section IV.] And be it [further] enacted by the authority aforesaid, That so much of the said act hereinbefore recited, and no more, as is hereby altered, changed, contradicted or supplied shall be and is hereby declared to be repealed, null and void to all intents and purposes.

Passed May 14, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the notes to the Acts of Assembly passed March 5, 1725-26, Chapter 289; and September 26, 1761, Chapter 470; and the act of Assembly passed March 4, 1763, Chapter 485; October 22, 1763, Chapter 505; May 20, 1767, Chapter 559; February 18, 1769, Chapter 594; March 9, 1771, Chapter 622.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1762, and continued by adjournments until the thirtieth day of September, 1763, the following acts were passed:

## CHAPTER CCCCLXXXIV.

AN ACT TO PREVENT AND REMOVE CERTAIN NUISANCES IN AND NEAR
THE CITY OF PHILADELPHIA.

Whereas great complaint is made by divers inhabitants of the city and suburbs of Philadelphia that distillers, soap-boilers and others frequently discharge large quantities of foul and stinking liquors, the returns from their stills and boiling-vessels, on the adjacent grounds or into the kennels of the public streets, [lanes] or alleys, to the great annoyance of the inhabitants, or by [discharging the] same into wells, vaults or sinks dug for that purpose have injured if not totally ruined their neighbors' waters, and that there are a variety of other nuisances or annoyances in and near the said city to the great inconvenience and damage of the inhabitants:

To prevent which inconveniences and damages:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any distiller, soap-boiler or tallow-chandler within the said city, district of Southwark or the built parts of [the] Northern Liberties shall, after the publication hereof, by them-

selves, their agents, journeymen or tenants, presume to discharge out of or from any still-house or workshop foul and nauseous liquor of any kind whatsoever into or upon any adjacent ground or into any well, vault or sink within the said city, district or township, every person so offending and being thereof legally convicted in the court of quarter sessions held for the pea[ce of the sai]d city or county respectively shall, for every such offense, forfeit and pay the sum of twenty pounds.

And the more effectually to preserve the waters in the said city, district of Southwark and Northern Liberties wholesome and fit for use:

[Section II.] Be it enacted by the authority aforesaid, That the commissioners by law appointed for paving the streets of the said city and supervisors of the district of Southwark and township of the Northern Liberties respectively, with the assent of the mayor or recorder and any two aldermen of the said city and any two magistrates of the county of Philadelphia aforesaid shall limit, direct and appoint the depth of all vaults, wells or sinks hereafter to be dug in the built parts of the said city, district or township for privies or necessary houses, which regulation being so made as aforesaid shall be advertised in the Pennsylvania Gazette and then deposited in the hands of the clerks of the court of quarter sessions for the city and county of Philadelphia, subject to the inspection of any inhabitant of the city, district and township aforesaid applying for that purpose; and that if any person or persons shall dig or cause to be dug any such vault, well or sink for privies or necessary houses of any greater depth than shall be limited and appointed as aforesaid, every such person or persons [so offend]ing and being thereof legally convicted as aforesaid shall forfeit and pay the sum of twenty pounds.

[Section III.] And be it further enacted by the authority aforesaid, That if any distiller, soap-boiler or tallow-chandler within the said city, district or township shall as aforesaid discharge any foul or nauseous liquor from any still-house or workshop so that such liquors shall pass into or along any of the streets, lanes or alleys of the said city, district or township, or if any soap-boiler or tallow-chandler shall keep, collect or use, or

some or a controller of the first number of the military of the first of the first or township there are numbered for the first of statistics of the greater of other nature, of the first principle shall been at the control of offered the person and another the size of the many of offered the person and another the size of the person of the said offered the person of the said offered the first that is the first of the person of the said offered the single-time, shall offered and part for every such offered the said of the said of

there are if you have a further endered by the authority alterment. That if any person is persons shall after the Joubli-solon, needed presons it with with they out it by any dead agree to make say was if sattle, should be bug in any extrement in dut if an in the person in the meaning houses, and shall want once sacrase, sarried to fifth visitous burying the same of a not outlinest depth in the ground of any part of the common of the sall stry in in the ground of any part of the common of the sall stry in in the ground of the streets, lanes, alleys or against a said stry in the same are persons [see] so offending and swing outlined thereof before any justice of the peace of the stry or country of Philadelphia respectively shall forfeit and may for every such offense the sum of thirty shillings.

section V. And he it further enacted by the authority atomical, That if any person or persons shall, after the publication nerest, east, throw or lay any carease, carrion or filth meaturever, or any dist, rubbish or other annoyance or obstruction whatevers into the public water-course of the said city, called The Dock, and shall thereof be convicted before any justice of the peace of the said city as aforesaid, every such offender shall for every such offense forfeit and pay such a sum of money not exceeding forty shillings as the said justice before whom the offender shall be convicted shall think reasonable.

And whereas by late extraordinary encroachments of cellar doors, steps and porches made in the streets of the said city, of jut windows, bulks and other encumbrances, the said streets are greatly obstructed; and by a number of spouts or gutters set at the caves of pent-houses and other places in the said streets large collections of water are discharged in rainy seasons on persons passing near the [same:]

[Section VI.] Be it therefore enacted by the authority aforesaid, That if any person or persons shall hereafter make and set up, or shall cause to be made and set up, in any street of fifty feet wide or upwards within the said city any porch, cellar door or step which shall extend beyond the distance of four feet three inches into such street or a proportionate distance into any narrower street where the same shall be made or set up, and if any person or persons shall hereafter make and set up, or cause to be made and set up, any bulk, jut-window or encumbrance whatsoever whereby the passage of any street shall be obstructed, or shall so place, or cause to be so placed, any spout or gutter whereby the passage of any street shall be incommoded, every pe[rson so offending] and being thereof legally convicted before any justice of the [peace of the said] city shall, for every such offense, forfeit and pay the sum of thirty shillings and shall forthwith remove or cause the [said] nuisance to be removed.

[Section VII.] And be it further enacted by the authority aforesaid, That the owner or owners of every house within the said city having, at the publication hereof, any porch, cellar door or step extending into any street beyond the limitation aforesaid, or having fixed or fastened to such house any bulk, jut-window or other encumbrance whatsoever, shall yearly and every year pay to such person or persons as shall be appointed to receive and collect the same such sum or sums of money as the said commissioners and the assessors of the said city shall assess and settle as a full compensation to the public until such porch, cellar door or step to him, her or them respectively belonging shall be reduced to the limits aforesaid, or such bulk, jut-window or other encumbrance shall be removed and taken away.

And any owner or owners of any house or houses whereunto any spouts or gutters shall, at the time of the publication hereof be so fixed, placed that the waters thereby [discharging may] incommode persons passing the said streets, shall and they [are hereby enjoined] and required forthwith to remove or effectually to alter and amend the same.

[Section VIII.] And be it further enacted, That the one-half of all the fines and forfeitures arising by this act in the city of Philadelphia, except such as are to be recovered and imposed in the court of quarter sessions for the said city, shall be paid to the informer or such person or persons as shall sue for the same, and the other half thereof shall be paid to the city treasurer, to be applied towards paving and cleansing the streets of the said city; and that all fines and forfeitures so as aforesaid incurred [for any offenses] committed out of the said city shall be paid to the supervisors of the highways of the respective district or township where the offense was committed and applied to the repair of the highways of such district or township.

[Section IX.] And be it further enacted by the authority aforesaid, That this act shall be and continue in force for and during the space of five years and from thence to the end of the next session of assembly and no longer.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II. Repealed by the Act of Assembly passed February 18, 1769, Chapter 594.

## CHAPTER CCCCLXXXV.

▲ SUPPLEMENT TO THE ACT, ENTITLED "AN ACT FOR REGULATING, PITCHING, PAVING AND CLEANSING THE HIGHWAYS, STREETS, LANES AND ALLEYS, AND FOR REGULATING, MAKING AND AMENDING THE WATERCOURSES AND COMMON SEWERS WITHIN THE INHABITED AND SETTLED PARTS OF THE CITY OF PHILADELPHIA, AND FOR RAISING OF MONEY TO DEFRAY THE EXPENSE THEREOF." 1

Whereas, the paving of the city of Philadelphia within the inhabited parts thereof without delay will be attended with many conveniences and advantages, and it is but just and reasonable that the benefits and emoluments of the act of General Assembly of this province, entitled "An act for regulating, pitching, paving and cleansing the highways, streets, lanes and alleys, and for regulating, making and amending the water-

courses and common sewers within the inhabited and settled parts of the city of Philadelphia and for raising of money to defray the expense thereof," 1 passed in the second year of His Majesty George the Third, should be extended as soon as may be to all the inhabited parts of the said city, inasmuch as every inhabitant contributes immediately to the expense thereof. And whereas the tax and assessment of three pence in the pound on the estates, real and personal, within the said city in each year in and by virtue of the said recited act of general assembly being charged with the value of pavements theretofore pitched in the cartway to the amount of four thousand pounds and upwards to be deducted from the said tax will scarcely produce money sufficient to defray the expense of regulating, cleansing and preparing the said streets for paving and therefore not answer the good purposes intended and designed by the said act:

For remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same. That it shall and may be lawful to and for the commissioners nominated and appointed in and by a certain act of general assembly passed in the second year of his present Majesty's reign, entitled "An act for granting to His Majesty the sum of twenty-three thousand five hundred pounds for the purposes therein mentioned," 1 with the assent and approbation of the governor or commander in chief for the time being, and not otherwise, to advance and lend to the commissioners nominated and appointed or to such as shall hereafter [be] nominated and appointed in and by virtue of the act to which this act is a supplement for cleansing and paving the streets of the city of Philadelphia, or to a majority of them, such sum or sums of

<sup>1</sup> Passed March 26, 1762, Chapter 480.

<sup>1</sup> Passed May 14, 1762, Chapter 483.

money not exceeding eight thousand pounds in the whole, as shall be convenient and necessary for the purposes mentioned in this act and the said act out of the moneys liable and subject to their draft on the trustees of the general loan office for the protection and defense of the city of Philadelphia, and for that purpose to draw an order or orders, as occasion may be, on the said trustees within the space of seven months from the passing of this act and not afterwards, payable to the said commissioners for paving and cleansing the streets of the said city, which said sum or sums the said commissioners are hereby authorized and empowered to borrow and receive for the uses, intents and purposes mentioned and contained in this and the said herein first recited act of general assembly; and the said commissioners for cleansing and paving the streets aforesaid shall, upon receipt of the moneys mentioned and specified in such order or orders, give a note or certificate in writing of and for the sum lent, signed by them, or a majority of them, which note or certificate shall be registered in the book wherein are entered the proceedings of the governor and provincial commissioners for the time being.

And in order to assure and secure to the said lenders the disposition and application of the moneys which shall be so lent and advanced to the uses, intents and purposes to and for which the same by law was given and granted to His Majesty when it shall become expedient and necessary:

[Section II.] Be it further enacted by the authority afore-said, That the moneys so borrowed shall be repaid and discharged out of the moneys directed to be raised and levied in and by virtue of the act to which this act is a supplement on or before the tenth day of March, in the year of our Lord one thousand seven hundred and seventy; or if the same shall be sooner demanded by the governor of this province for the time being and the said commissioners, or a majority of them, so lending the same, whenever the same shall be so demanded, and that the said commissioners for cleansing and paving the streets aforesaid, whenever such demand shall be made as aforesaid or at the expiration of the term before mentioned, which shall first happen, shall draw orders on the treasurer appointed or to be

appointed by them by virtue of the said act to which this act is a supplement, payable to the provincial treasurer for the discharge and payment of the said notes and certificates, until the principal sum of all and every such note and certificate shall be fully paid and discharged; but if it shall so happen that at the time when the said sum or sums of money shall be demanded as aforesaid there shall not be in the hands of the said treasurer a sufficient sum of money to satisfy and discharge the sums due on the said notes and certificates, then and in such case the said commissioners for pitching and paving the said streets shall and they are hereby authorized and empowered to borrow and receive from such person [and] persons as shall be willing and ready to lend and advance the same all such sums of money as shall be requisite and necessary to pay and discharge such deficiency or balance so remaining unpaid to the provincial treasurer aforesaid, which said lenders shall have and receive for the use and forbearance of their respective loans until the same shall be paid off, interest not exceeding six per centum yearly; and that the said lenders shall have and receive a note and certificate in writing of and for the sum lent, with the interest thereof, signed by the said commissioners so borrowing the same, which said note and certificate shall be registered in a book by them to be kept for that purpose, and that the said lenders shall be paid by the said commissioners the sum or sums of money of them respectively borrowed with the interest thereof out of the moneys which shall arise, be collected and paid into the hands of the said city treasurer in and by virtue of this act and the act to which this act is a supplement.

[Section III.] And be it further enacted by the authority aforesaid, That all and every person and persons to whom any money shall be due on account of the loan last aforesaid by virtue of this act, his, her or their executors, administrators or assigns, after such note and certificate shall be registered as aforesaid may assign, transfer and make over by proper words of assignment to be indorsed on his, her or their certificate all his, her or their right, title or interest of such note and certificate to any other person or persons whatsoever, which assignment shall entitle such assignee or assignees, his, her or their

and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said trustees, as soon as they have sold the said bills of exchange by virtue of the act hereinbefore recited and received the moneys arising thereby, shall, out of the moneys so received as aforesaid and ordered by the said act to be burnt, sunk and destroyed retain and keep in their hands and possession, the sum of twenty-three thousand five hundred pounds hereby given and granted to His Majesty, and no more, anything in the said recited act to the contrary notwithstanding, subject nevertheless to the orders and drafts and to the several uses and purposes hereinafter mentioned and declared.

[Section II.] And be it further enacted by the authority aforesaid, That Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, Joseph Galloway, John Baynton and John Morton, Esquires, or the majority of them or of the survivors of them, with the consent and approbation of the governor or commander in chief for the time being and not otherwise, shall apply, order and appoint the disposition of the moneys granted by virtue of this act, fifteen thousand pounds, part thereof, for and towards raising, victualling, clothing and paying a number of officers and men to be used and employed in the protection and defense of the city of Philadelphia until the first day of November next [ensuing], and for and towards building and erecting such fortifications as may be necessary for the security of the city of l'hiladelphia and five thousand pounds more thereof for and towards defraying the expense of a certain treaty soon expected to be held with the northern and western Indians, and three thousand five hundred pounds more thereof towards paying such certificates as have been heretofore or shall be hereafter drawn by order of assembly for the incidental charges of this government for the current year not heretofore provided for and the salaries of the commissioners hereby nominated and appointed.

[Section III.] And be it further enacted by the authority aforesaid, That the said Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, Joseph Galloway, John Baynton and John Morton, or a majority of them [or of the survivors of them],

shall and they are hereby enjoined and required to draw orders on the trustees of the general loan office for the purposes aforesaid, the same purposes being severally first approved of and agreed to by the governor or commander in chief of this province for the time being, which orders so drawn the said trustees shall pay and discharge out of and with the moneys so directed as aforesaid to be retained by them, and when paid shall be produced to the committee of assembly for the time being and by them be allowed in discharge of so much of the moneys granted to the King's use by virtue of this act; and the said commissioners shall have and receive, out of the moneys arising by this act, to pay the incidental charges of government aforesaid, the sum of twenty-three pounds ten shillings each and no more for their trouble in discharging the duties of commissioners hereby required.

[Section IV.] And be it [further] enacted by the authority aforesaid, That so much of the said act hereinbefore recited, and no more, as is hereby altered, changed, contradicted or supplied shall be and is hereby declared to be repealed, null and void to all intents and purposes.

Passed May 14, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the notes to the Acts of Assembly passed March 5, 1725-26, Chapter 289; and September 26, 1761, Chapter 470; and the act of Assembly passed March 4, 1763, Chapter 485; October 22, 1763, Chapter 505; May 20, 1767, Chapter 559; February 18, 1769, Chapter 594; March 9, 1771, Chapter 622.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1762, and continued by adjournments until the thirtieth day of September, 1763, the following acts were passed:

## CHAPTER CCCCLXXXIV.

AN ACT TO PREVENT AND REMOVE CERTAIN NUISANCES IN AND NEAR
THE CITY OF PHILADELPHIA.

Whereas great complaint is made by divers inhabitants of the city and suburbs of Philadelphia that distillers, soap-boilers and others frequently discharge large quantities of foul and stinking liquors, the returns from their stills and boiling-vessels, on the adjacent grounds or into the kennels of the public streets, [lanes] or alleys, to the great annoyance of the inhabitants, or by [discharging the] same into wells, vaults or sinks dug for that purpose have injured if not totally ruined their neighbors' waters, and that there are a variety of other nuisances or annoyances in and near the said city to the great inconvenience and damage of the inhabitants:

To prevent which inconveniences and damages:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any distiller, soap-boiler or tallow-chandler within the said city, district of Southwark or the built parts of [the] Northern Liberties shall, after the publication hereof, by them-

selves, their agents, journeymen or tenants, presume to discharge out of or from any still-house or workshop foul and nauseous liquor of any kind whatsoever into or upon any adjacent ground or into any well, vault or sink within the said city, district or township, every person so offending and being thereof legally convicted in the court of quarter sessions held for the pea[ce of the sai]d city or county respectively shall, for every such offense, forfeit and pay the sum of twenty pounds.

And the more effectually to preserve the waters in the said city, district of Southwark and Northern Liberties wholesome and fit for use:

[Section II.] Be it enacted by the authority aforesaid, That the commissioners by law appointed for paving the streets of the said city and supervisors of the district of Southwark and township of the Northern Liberties respectively, with the assent of the mayor or recorder and any two aldermen of the said city and any two magistrates of the county of Philadelphia aforesaid shall limit, direct and appoint the depth of all vaults, wells or sinks hereafter to be dug in the built parts of the said city, district or township for privies or necessary houses, which regulation being so made as aforesaid shall be advertised in the Pennsylvania Gazette and then deposited in the hands of the clerks of the court of quarter sessions for the city and county of Philadelphia, subject to the inspection of any inhabitant of the city, district and township aforesaid applying for that purpose; and that if any person or persons shall dig or cause to be dug any such vault, well or sink for privies or necessary houses of any greater depth than shall be limited and appointed as aforesaid, every such person or persons [so offend]ing and being thereof legally convicted as aforesaid shall forfeit and pay the sum of twenty pounds.

[Section III.] And be it further enacted by the authority aforesaid, That if any distiller, soap-boiler or tallow-chandler within the said city, district or township shall as aforesaid discharge any foul or nauseous liquor from any still-house or workshop so that such liquors shall pass into or along any of the streets, lanes or alleys of the said city, district or township, or if any soap-boiler or tallow-chandler shall keep, collect or use, or

cause to be kept, collected or used in any of the built parts of the city, district or township aforesaid any stale, putrid or stinking fat, grease or other matter, or if any butcher shall keep at or near his slaughter-house any garbage or filth whatsoever so as to annoy or offend any neighbor or person whomsoever, he, she or they so offending and being thereof convicted before any justice of the peace of the said city or county respectively shall forfeit and pay for every such offense the sum of thirty-five shillings.

[Section IV.] And be it further enacted by the authority aforesaid, That if any person or persons shall, after the [publication] hereof presume to cart, carry, draw out or lay any dead horse [or other car] case of cattle, sheep, hog or dog, or any excrement or filth from vaults, privies or necessary houses, and shall leave such carcase, carrion or filth without burying the same a full and sufficient depth in the ground on any part of the commons of the said city or on or near any of the streets, lanes, alleys or highways within the said city or district or township adjoining the same, every person or persons or persons [sic] so offending and being convicted thereof before any justice of the peace of the city or county of Philadelphia respectively shall forfeit and pay for every such offense the sum of thirty shillings.

[Section V.] And be it further enacted by the authority aforesaid, That if any person or persons shall, after the publication hereof, cast, throw or lay any carcase, carrion or filth whatsoever, or any dirt, rubbish or other annoyance or obstruction whatsoever into the public water-course of the said city, called The Dock, and shall thereof be convicted before any justice of the peace of the said city as aforesaid, every such offender shall for every such offense forfeit and pay such a sum of money not exceeding forty shillings as the said justice before whom the offender shall be convicted shall think reasonable.

And whereas by late extraordinary encroachments of cellar doors, steps and porches made in the streets of the said city, of jut-windows, bulks and other encumbrances, the said streets are greatly obstructed; and by a number of spouts or gutters set at the eaves of pent-houses and other places in the said streets large

collections of water are discharged in rainy seasons on persons passing near the [same:]

[Section VI.] Be it therefore enacted by the authority aforesaid, That if any person or persons shall hereafter make and set up, or shall cause to be made and set up, in any street of fifty feet wide or upwards within the said city any porch, cellar door or step which shall extend beyond the distance of four feet three inches into such street or a proportionate distance into any narrower street where the same shall be made or set up, and if any person or persons shall hereafter make and set up, or cause to be made and set up, any bulk, jut-window or encumbrance whatsoever whereby the passage of any street shall be obstructed, or shall so place, or cause to be so placed, any spout or gutter whereby the passage of any street shall be incommoded, every pe[rson so offending] and being thereof legally convicted before any justice of the [peace of the said] city shall, for every such offense, forfeit and pay the sum of thirty shillings and shall forthwith remove or cause the [said] nuisance to be removed.

[Section VII.] And be it further enacted by the authority aforesaid, That the owner or owners of every house within the said city having, at the publication hereof, any porch, cellar door or step extending into any street beyond the limitation aforesaid, or having fixed or fastened to such house any bulk, jut-window or other encumbrance whatsoever, shall yearly and every year pay to such person or persons as shall be appointed to receive and collect the same such sum or sums of money as the said commissioners and the assessors of the said city shall assess and settle as a full compensation to the public until such porch, cellar door or step to him, her or them respectively belonging shall be reduced to the limits aforesaid, or such bulk, jut-window or other encumbrance shall be removed and taken away.

And any owner or owners of any house or houses whereunto any spouts or gutters shall, at the time of the publication hereof be so fixed, placed that the waters thereby [discharging may] incommode persons passing the said streets, shall and they [are hereby enjoined] and required forthwith to remove or effectually to alter and amend the same.

[Section VIII.] And be it further enacted, That the one-half of all the fines and forfeitures arising by this act in the city of Philadelphia, except such as are to be recovered and imposed in the court of quarter sessions for the said city, shall be paid to the informer or such person or persons as shall sue for the same, and the other half thereof shall be paid to the city treasurer, to be applied towards paving and cleansing the streets of the said city; and that all fines and forfeitures so as aforesaid incurred [for any offenses] committed out of the said city shall be paid to the supervisors of the highways of the respective district or township where the offense was committed and applied to the repair of the highways of such district or township.

[Section IX.] And be it further enacted by the authority aforesaid, That this act shall be and continue in force for and during the space of five years and from thence to the end of the next session of assembly and no longer.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II. Repealed by the Act of Assembly passed February 18, 1769, Chapter 594.

#### CHAPTER CCCCLXXXV.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT FOR REGULATING, PITCHING, PAVING AND CLEANSING THE HIGHWAYS, STREETS, LANES AND ALLEYS, AND FOR REGULATING, MAKING AND AMENDING THE WATERCOURSES AND COMMON SEWERS WITHIN THE INHABITED AND SETTLED PARTS OF THE CITY OF PHILADELPHIA, AND FOR RAISING OF MONEY TO DEFRAY THE EXPENSE THEREOF." 1

Whereas, the paving of the city of Philadelphia within the inhabited parts thereof without delay will be attended with many conveniences and advantages, and it is but just and reasonable that the benefits and emoluments of the act of General Assembly of this province, entitled "An act for regulating, pitching, paving and cleansing the highways, streets, lanes and alleys, and for regulating, making and amending the water-

money not exceeding eight thousand pounds in the whole, as shall be convenient and necessary for the purposes mentioned in this act and the said act out of the moneys liable and subject to their draft on the trustees of the general loan office for the protection and defense of the city of Philadelphia, and for that purpose to draw an order or orders, as occasion may be, on the said trustees within the space of seven months from the passing of this act and not afterwards, payable to the said commissioners for paving and cleansing the streets of the said city, which said sum or sums the said commissioners are hereby authorized and empowered to borrow and receive for the uses, intents and purposes mentioned and contained in this and the said herein first recited act of general assembly; and the said commissioners for cleansing and paving the streets aforesaid shall, upon receipt of the moneys mentioned and specified in such order or orders, give a note or certificate in writing of and for the sum lent, signed by them, or a majority of them, which note or certificate shall be registered in the book wherein are entered the proceedings of the governor and provincial commissioners for the time being.

And in order to assure and secure to the said lenders the disposition and application of the moneys which shall be so lent and advanced to the uses, intents and purposes to and for which the same by law was given and granted to His Majesty when it shall become expedient and necessary:

[Section II.] Be it further enacted by the authority aforesaid, That the moneys so borrowed shall be repaid and discharged out of the moneys directed to be raised and levied in and by virtue of the act to which this act is a supplement on or before the tenth day of March, in the year of our Lord one thousand seven hundred and seventy; or if the same shall be sooner demanded by the governor of this province for the time being and the said commissioners, or a majority of them, so lending the same, whenever the same shall be so demanded, and that the said commissioners for cleansing and paving the streets aforesaid, whenever such demand shall be made as aforesaid or at the expiration of the term before mentioned, which shall first happen, shall draw orders on the treasurer appointed or to be

appointed by them by virtue of the said act to which this act is a supplement, payable to the provincial treasurer for the discharge and payment of the said notes and certificates, until the principal sum of all and every such note and certificate shall be fully paid and discharged; but if it shall so happen that at the time when the said sum or sums of money shall be demanded as aforesaid there shall not be in the hands of the said treasurer a sufficient sum of money to satisfy and discharge the sums due on the said notes and certificates, then and in such case the said commissioners for pitching and paving the said streets shall and they are hereby authorized and empowered to borrow and receive from such person [and] persons as shall be willing and ready to lend and advance the same all such sums of money as shall be requisite and necessary to pay and discharge such deficiency or balance so remaining unpaid to the provincial treasurer aforesaid, which said lenders shall have and receive for the use and forbearance of their respective loans until the same shall be paid off, interest not exceeding six per centum yearly; and that the said lenders shall have and receive a note and certificate in writing of and for the sum lent, with the interest thereof, signed by the said commissioners so borrowing the same, which said note and certificate shall be registered in a book by them to be kept for that purpose, and that the said lenders shall be paid by the said commissioners the sum or sums of money of them respectively borrowed with the interest thereof out of the moneys which shall arise, be collected and paid into the hands of the said city treasurer in and by virtue of this act and the act to which this act is a supplement.

[Section III.] And be it further enacted by the authority aforesaid, That all and every person and persons to whom any money shall be due on account of the loan last aforesaid by virtue of this act, his, her or their executors, administrators or assigns, after such note and certificate shall be registered as aforesaid may assign, transfer and make over by proper words of assignment to be indorsed on his, her or their certificate all his, her or their right, title or interest of such note and certificate to any other person or persons whatsoever, which assignment shall entitle such assignee or assignees, his, her or their

executors, administrators or assigns, to the benefit thereof and payment thereon, and such assignee or assignees, their executors, adminstrators or assigns may in like manner assign the same again, and so toties quoties; and afterwards it shall not be in the power of such person or persons who hath or have made such assignment to make void, release or discharge the same or the moneys thereby due.

[Section IV.] And be it further enacted by the authority aforesaid, That if a sum of money shall not be raised and levied in and by virtue of the act to which this act is a supplement before the time limited and appointed therein for the expiration thereof, sufficient to pay off and discharge all and every the sum and sums of money so borrowed as is last hereinbefore directed, or (if the same last-mentioned loans should not be found necessary) the sum and sums of money so borrowed as is herein first before directed, then and in such case the said act to which this act is a supplement and every article, clause and thing therein contained not herein and hereby altered, changed, amended, contradicted or repealed shall be and is hereby declared to be and remain in full force, power and virtue until all and every the sum and sums of money borrowed and received in and by virtue of this act shall be fully paid off, satisfied and discharged, anything in the same act to the contrary thereof notwithstanding.

And whereas by the large increase of the inhabitants of the said city and the several improvements made in places and pieces of ground which have been heretofore left open by the owners thereof and made use of in common for the landing of commodities brought to market, the landing places and wharves belonging to the public are found insufficient to accommodate the persons who bring their goods and effects to be disposed of in the said city.

And whereas there is a certain piece of ground and watercourse, commonly called and known by the name of The Dock, extending from the river Delaware across Front street, Second street and Walnut street to the Third street in the said city. with a street on each side thereof, formerly granted by the late Honorable William Penn, proprietary and governor of this province to the inhabitants of the said city for public use, which said dock, for want of opening and cleansing, has heretofore proved a nuisance, pernicious to the health of the said inhabitants, whereas by a due regulation thereof the same may be made of public use and real benefit to the inhabitants of the said city:

For remedy whereof:

[Section V.] Be it enacted by the authority aforesaid, That the said commissioners shall and may, as soon as conveniently may be after the publication of this act, out of the moneys which they are so as aforesaid authorized and empowered to borrow, purchase two convenient lots [for] landing places on the river Delaware, one at or near each side of the said city, for the landing of boards, hay and other things which may be brought from time to time to the market of the same for the use of the inhabitants and citizens thereof, which said lots when so purchased shall be vested in the mayor and commonalty of the city of Philadelphia, in trust nevertheless to permit and suffer the mayor, recorder and aldermen of the said city, with the consent and approbation of any four of the assessors thereof for the time being, to take and receive the issues, profits and tolls of the said lots and landing places and to dispose of the same, with the concurrence of the assessors aforesaid for the use, benefit and advantage of the inhabitants of the said city and for no other use, intent or purpose whatsoever. And the said commissioners are hereby further authorized and empowered to open, cleanse, repair and regulate and make navigable the said Dock and every part thereof in such manner as to them shall seem most convenient, useful and advantageous to the public, and for that purpose shall and may contract and agree with such person [and] persons as they shall think proper from time to time to be employed under their direction in the premises, and generally to agree on, execute and perform all and every other act. matter and thing which to them shall appear necessary for the effectual opening, cleansing, [repair]ing, regulating and making the said Dock and every part thereof navigable from time to time and at all times hereafter during the continuance of this act, and to defray the expense thereof out of the moneys so to be borrowed by them as aforesaid.

[Section VI.] Provided always nevertheless, and be it enacted by the authority aforesaid. That the owner and owners of the several lots of ground adjoining to the said streets situate as aforesaid on each side of the said Dock shall and are hereby enjoined and required, as soon as conveniently may be after the publication hereof, to build and erect before the whole front of his, her or their lot or lots so adjoining the said streets a good, strong, substantial wall of good, flat stone from the bottom of the said Dock of such thickness, height and depth as the said commissioners, or a majority of them, shall, by their order in writing, direct and appoint at his, her or their own costs, charges and private expense; unless it be in such cases where the front of any such lot shall be situate at any of the corners where the said Dock shall intersect any of the said streets, and that in such case the owner of such lot shall only erect so much of such wall as shall be thought reasonable and just by the said commissioners for paying the streets aforesaid, or a majority of them; and that [the] residue of the said wall on the fronts of the said lots shall be erected by the said commissioners out of the moneys so to be borrowed as aforesaid; and if the said owners or their tenants, or any of them, shall neglect or refuse to build and erect the said wall in manner aforesaid for and during the space of three months after the receipt of such order and directions in writing, that then and in such case the said commissioners, or a majority of them, shall build and erect the same and defray the expense thereof out of the said moneys so borrowed by them as aforesaid, and shall recover the money so expended of the said respective owner or owners as is hereinafter directed.

[Section VII.] And be it further enacted by the authority aforesaid. That the sum and sums of money which the commissioners for pitching and paving the [said] streets are hereby authorized and empowered to borrow shall be by them made use of, applied and appropriated to and for the uses, intents and purposes mentioned and directed in and by this act and the act of general assembly to which this act is a supplement and to and

for no other uses, intents and purposes whatsoever, and that the sum and sums of money which the governor of this province for the time being and the commissioners aforesaid are hereby authorized and empowered to lend when the same shall be repaid to the provincial treasurer as aforesaid shall be applied, disposed of and appropriated by the same persons in the same manner and to the same uses, intents and purposes as if the same had never been lent or this act had never been made, anything herein to the contrary notwithstanding.

[Section VIII.] And be it further enacted by the authority aforesaid, That if any person or persons shall, after the publication of this act, cast or throw down out of any cart, wagon or other carriage any rubbish, dirt or earth in any public street, lane or alley of the city of Philadelphia, save only in such parts and places as shall be appointed and agreed on by the said commissioners for pitching and paving the said streets, every such person shall forfeit and pay for every such offense the sum of five shillings and pay the cost of removing the same. And if any person or persons, save the said commissioners, shall destroy, remove or pull down any bars, chain, rope or fence which the said commissioners shall hereafter cause to be set up in or across the said streets, lanes or alleys for the preservation of the pavements then newly made or to be made, every such person who shall offend in the premises shall forfeit and pay the sum of twenty shillings for every such offense.

And whereas [some] doubts have arisen whether the owners of houses and lots before whose fronts the cartway was paved before the passing of the said act to which this act is a supplement were obliged and directed by the same act to pave the footway, and it is not therein appointed and ascertained with what materials the said footway shall be made and paved nor at whose expense the gutters for carrying off the water and posts for keeping off the carriages shall be found, provided, made and set up:

[Section IX.] Be it therefore enacted by the authority aforesaid, That the owner or owners, or the tenant or tenants, of every house [or] lot within the said city before whose front the cartway has been at any time before the passing of this act or

shall hereafter be paved shall, at his, her or their private expense, pave and repair the footway of such breadth into the street with good, sound, well-burnt bricks or good, square, flat stone, and shall make, pave, repair and amend the gutters to the said pavements belonging or adjoining of such width and depth, and shall provide, [find] and set up so many posts of such length, form and thickness and of such timber, for keeping [of] the carriages off and from the said footway and in such manner as shall be ordered and directed by the mayor [or] recorder and four of the aldermen, with any four of the said commissioners for cleansing and paving the said streets, under the penalty of one shilling for every foot fronting his said house or lot so neglected to be made, paved, amended or repaired, and two shillings and six pence for every post so neglected to be set up; and in such case the said commissioners, or a majority of them, shall make, amend and repair the said footway, gutters or watercourses, and find, provide and set up [the said] posts out of the moneys to be raised by virtue of the act to which this act is a supplement, and shall recover as well the money so expended for the purposes last aforesaid as the money expended by them in building and erecting the walls aforesaid with the fines and forfeitures aforesaid of the owner or owners, if resident within the said city or of the tenant of such owner or owners if they shall reside elsewhere, before the mayor, recorder or any alderman of the said city, in the same manner as debts not exceeding five pounds are by law directed to be recovered before the justices of the peace of the respective counties within this province, and that the sum or sums of money so expended by the tenant in and towards the purposes aforesaid shall be allowed by the owner or owners out of such rent as shall be then due or shall thereafter become due, any law, usage or custom to the contrary notwithstanding.

And whereas the paving the streets of the city of Philadelphia will be attended with a great expense to the inhabitants thereof, and it is necessary that due care be taken to preserve the pavements when made from [any and] every avoidable and unnecessary injury which may accrue from the use thereof. And whereas nothing can be more destructive to pavements of any



kind, and particularly to those newly made, than carrying [of] large and excessive weights and burdens in carriages, the fellies of the wheels whereof are of small breadth and narrow dimensions, whereby the stones of such pavements are loosened and tore up and the pavements themselves in a great measure ruined and destroyed:

For remedy whereof:

[Section X.] Be it enacted by [the] authority aforesaid, That no wagon, wain or cart whatsoever belonging to any person or persons whatsoever residing or inhabiting within the said city of Philadelphia or within the Northern Liberties thereof or within the district of Southwark or the township of Movamensing or Passyunk shall travel, pass or be drawn on any of the paved parts of the said city from and after the first day of March in the year one thousand seven hundred and sixty-four with any greater number of beasts of draught than three, if a four-wheel carriage, and if a two-wheel carriage with any greater number of beasts of draught than two, unless the fellies of such wheels shall be of the breadth or gauge of seven inches from side to side at the least; and that from and after the first day of March which shall be in the year of our Lord one thousand seven hundred and sixty-six no such wheel carriage belonging to persons residing in the places aforesaid shall travel, pass or be drawn in the said city with or by any number of oxen or horses whatsoever unless the fellies of the wheels thereof shall be of the breadth or gauge of seven inches from side to side at the least, carts with one horse, stage and light traveling wagons for passengers only excepted; and that every owner or owners of such wheel carriage which shall pass or be drawn in the said city contrary to the directions, tenor, true intent and meaning of this act shall, for every such offense, forfeit and pay the sum of five pounds, to be recovered as debts not exceeding [five pounds] are by law directed to be recovered, or otherwise shall forfeit any one of the beasts of draught drawing such wheel carriage (except the shaft or thill horse), together with all the gears, bridles, halters and accoutrements to such beast of draught belonging, one moiety thereof to the use of the person or persons who shall seize [or] distrain the

same, and the other half thereof to the commissioners, to be applied for paving the streets.

[Section XI.] And be it [further] enacted by the authority aforesaid, That the person or persons making such seizure or distress as aforesaid shall deliver the horse or oxen so seized and distrained, with the accourrements aforesaid, into the custody of some one of the constables of the said city, and every such constable is hereby required to take and receive and safely keep the same till the person or persons making such seizure or distress shall make proof, upon oath or affirmation, before some justice or justices of the said city of the offense committed; and the said justice or justices before whom such proof shall be made to their satisfaction is and are hereby empowered and required to issue his or their precept to such constable to sell and dispose of the beast so forfeited, with the accoutrements [aforesaid at] public auction or vendue, first giving [due] notice of such [sale and to pay the money arising from such sale one moilety thereof to the party or parties so seizing or distraining the said beast, and the other moiety to the said commissioners for paving the said streets, after deducting thereout such reasonable charges as the said justice or justices shall allow or direct; but in case no such proof shall be made within twenty-four hours next after such seizure, that then such beast shall be returned to the owner or owners thereof, he or they paying such reasonable charges as the said justice or justices shall allow and direct.

[Section XII.] And be it further enacted by the authority aforesaid, That if any person or persons shall hinder [or] prevent or obstruct the measuring or gauging of the fellies of such wheels or the seizing or distraining of any horse or beast of draught hereby directed to be forfeited, or shall use any violence to any person or persons who shall attempt to measure and gauge the said fellies or to seize or distrain such beast as aforesaid, every such person so offending shall for every such offense forfeit and pay the sum of ten pounds, being thereof legally convicted in any court of quarter sessions of the peace in and for the said city.

Provided always nevertheless, That if it shall appear [that

the fellies of such] wheels were originally made of the full breadth prescribed and directed by this act and to have become less by the wear of long usage, unless the same shall be less than six inches wide, the penalties and forfeitures hereby imposed on the owner or owners thereof shall not be incurred nor the same recovered in manner aforesaid or in any other manner whatsoever.

Provided also, That if any person or persons shall conceive him, her or themselves aggrieved by any judgment to be given by virtue of this act, if the same shall exceed the sum of forty shillings or the value thereof, it shall and may be lawful for such person or persons, within the space of six days next after the giving such judgment, but not after, to appeal therefrom to the next court of common pleas to be held for the said county, he, she or they first entering into recognizance with at least one sufficient surety in such a sum as shall be sufficient to answer the said penalty or value of the thing forfeited, together with all such costs as shall be awarded, to prosecute the said appeal with effect and to abide the order and judgment of the said court, which said court is hereby authorized and [required to] accept and receive the said appeal and to proceed therein [according to the usage] and practice in cases of appeal for debts above forty shillings and not exceeding five pounds.

Provided also, That if any person or persons be sued or prosecuted for anything done in pursuance of this act, he, she or they may plead the general issue and give this act and the special matter in evidence for their justification, and if the plaintiff or prosecutor become nonsuit or suffer a discontinuance or if a verdict pass against him, the defendant shall have treble costs, to be recovered as in cases where costs by law are given to defendants.

[Section XIII.] And be it further enacted by the authority aforesaid, That this act shall continue and remain in force for and during the time limited in and by the act to which this act is a supplement for the continuance thereof, and for and during the time hereinbefore limited for the continuance of the said act and no longer.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed March 26, 1762, Chapter 480. Repealed by the Act of Assembly passed February 18, 1769, Chapter 594.

## CHAPTER CCCCLXXXVI.

AN ACT FOR THE REGULATION OF APPRENTICES WITHIN THIS PRO-VINCE.

Whereas great mischiefs and losses have been sustained by the masters and mistresses of apprentices within this province for want of some law to regulate their conduct and behavior during their apprenticeships, to prevent their absenting themselves from their said masters' or mistresses' service without leave, to punish them for any disorderly or immoral behavior, and to make the covenants between them mutually obligatory:

For remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all and every person or persons that at any time or times after the publication of this act shall be bound by indenture to serve as an apprentice in any art, mystery, occupation or labor with the assent of his or her parent, guardian, next friend or overseers of the poor, although such persons or any of them be within the age of twenty-one years at the time of making their several indentures, shall be bound to serve the time in their respective indentures contained, so as such time or term of years of such apprentice, if a female, do expire at or before the age of eighteen years, and if a male at or before the age of twenty-one years, as fully to all intents and purposes as

if the same apprentices were of full age at the time of making the said indentures, any law, usage or custom to the contrary notwithstanding.

[Section II.] And be it further enacted by the authority aforesaid, That if any master or mistress shall misuse, abuse or evilly treat or shall not discharge his or her duty towards his or her apprentice according to the covenants in the indentures between them made, or if the said apprentice shall abscond or absent him or herself from his or her master's or mistress's service without leave, or shall not do and discharge his or her duty to his or her master or mistress according to his or her covenants aforesaid, the said master or mistress or apprentice being aggrieved in the premises shall or may apply to any one justice of the peace of any county or city where the said master or mistress shall reside, who, after giving due notice to such master, mistress or apprentice, if he or she shall neglect or refuse to appear, shall thereupon issue his warrant for bringing him or her, the said master, mistress or apprentice, before him, and take such order and direction between the said master or mistress and apprentice as the equity and justice of the case shall require, and if the said justice shall not be able to settle and accommodate the difference and dispute between the said master or mistress and apprentice through a want of conformity in the master or mistress, then the said justice shall take a recognizance of the said master or mistress and bind him or her over to appear and answer the complaint of his or her said apprentice at the next county court of quarter sessions to be held for the said county or city and take such order with respect to such apprentice as to him shall seem just; and if through want of conformity in the said apprentice, he shall, if the master or mistress request it, take a recognizance of him or her, with one sufficient surety, for his or her appearance at the said sessions and to answer the complaint of his or her said master or mistress, or commit such apprentice for want of such surety to the common gaol or work house of the said county or city respectively; and upon such appearance of the parties and hearing of their respective proofs and allegations, the said court shall and they are hereby authorized and empowered,

if they see cause, to discharge the said apprentice of and from his or her apprenticeship, and of and from all and every the articles, covenants and agreements in his or her said indenture contained, the indenture of his or her said apprenticeship or any law or custom to the contrary notwithstanding; but if default shall be found in the said apprentice, then the said court is hereby authorized and empowered to cause, if they see sufficient occasion, such punishment, by imprisonment of the body and confinement at hard labor to be inflicted on him or her as to them, in their discretion, they shall think his or her offense or offenses shall deserve.

[Section III.] And be it further enacted by the authority aforesaid, That if any apprentice of any of the arts, trades, mysteries, occupations or labor aforesaid shall depart and abscond from his or her master's or mistress's service into [any] other county of this province or into the city of Philadelphia, it shall and may be lawful to and for any justice of the peace of such county or city to issue his warrant to any constable within his county or city to apprehend, take and have the body of such apprentice before him or some other justice of his county, and upon such appearance and hearing of the complaint and defense of the parties, if default be found in the said apprentice, then and in such case the said justice before whom such warrant shall be returned shall commit him or her to the common gaol of the county where his or her said master or mistress shall reside, unless he or she will consent to return home or shall find sufficient surety to appear at the next sessions to be held for the county where such master or mistress shall reside and answer the complaint of the said master or mistress and not to depart the same without leave.

[Section IV.] And be it further enacted by the authority aforesaid, That if any person or persons whatsoever shall harbor, conceal or entertain any such apprentice, knowing him to be such, during the space of twenty-four hours, without his or her master's or mistress's consent, and shall not give notice thereof to his or her said master or mistress, every such person or persons offending in the premises shall pay to the said master or mistress the sum of twenty shillings for every day he shall

so harbor, conceal or entertain such apprentice, to be recovered in a summary way as debts under five pounds are by law directed to be recovered if the same shall not exceed five pounds, if otherwise to be recovered by an action of debt to be brought at the suit of the party injured in any court of common pleas within this province.

[Section V.] Provided always nevertheless, That nothing in this act contained shall be deemed, held or understood to repeal, alter or change any article, clause or thing in the act of general assembly of this province, entitled "An act for establishing Orphans' courts," passed in the eleventh year of Queen Anne.

[Section VI.] And be it further enacted by the authority aforesaid, That this act and every article, clause and thing therein contained shall be and continue in full force for and during the space of seven years from the publication hereof and from thence to the end of the next session of assembly and no longer.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II. Repealed by the Act of Assembly passed September 29, 1770, Chapter 616.

## CHAPTER CCCCLXXXVII.

AN ACT TO CONTINUE AN ACT, ENTITLED "AN ACT FOR REGULATING WAGONERS, CARTERS, DRAYMEN AND PORTERS WITHIN THE CITY OF PHILADELPHIA AND FOR OTHER PURPOSES THEREIN MENTIONED." 1

Whereas an act of general assembly of this province, entitled "An act for regulating wagoners, carters, draymen and porters within the city of Philadelphia and for other purposes therein mentioned," was passed in the first year of the present reign and hath been found on experience to be of use and benefit to the

<sup>1</sup> Passed March 27, 1712-13, Chapter 197.

<sup>1</sup> Passed March 14, 1761, Chapter 459.

inhabitants of the said city. And whereas the said act is now near expiring by its own limitation:

[Section I.] Re it therefore enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said act and every article, clause and thing therein contained (the clause of limitation aforesaid only excepted) shall be and is hereby declared to be in full force and virtue for and during the term of five years from and after the publication hereof and from thence to the end of the next session of assembly.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed March 14, 1761, Chapter 459; and the Act of Assembly passed September 29, 1770, Chapter 615.

#### CHAPTER CCCCLXXXVIII.

AN ACT FOR THE RELIEF OF PERSONS WHOSE APPRENTICES OR SER-VANTS HAVE ENLISTED IN THE LATE KING'S OR HIS PRESENT MA-JESTY'S SERVICE.

Whereas by an act of general assembly of this province passed in the first year of his present Majesty's reign, entitled "An act for appointing certain persons hereinafter named to apply for and receive the distributive shares and proportions which are or shall be allotted to this province out of the sum or sums of money granted or to be granted by Parliament to His Majesty's Colonies in America," provision has been made for the payment of the masters or owners of servants heretofore enlisted in His Majesty's service. And whereas many appren-

<sup>&</sup>lt;sup>1</sup> Passed September 26, 1762, Chapter 470.

# 1762-63] The Statutes at Large of Pennsylvania.

tices and servants who have bound themselves or have been bound, with the consent of their respective parents or friends or by overseers of the poor, to some of the inhabitants of this province, have enlisted during the present war with France in the late King's or his present Majesty's service to the great detriment of their several masters, for whose relief no provision hath yet been made, though it is equally just and reasonable that some compensation be made to the masters last mentioned for the damages they have sustained as to the masters provided for as aforesaid:

[Section I.] Be it therefore enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, Joseph Galloway, John Baynton and John Morton, Esquires, or a majority of them, or of the survivors of them, shall and they are hereby required and empowered, within the space of six months from the passing of this act and not afterwards, to receive the applications of all such persons inhabiting within this province whose apprentices or servants bound as aforesaid have enlisted during the present war with France in the late King's or his present Majesty's service and after a diligent inquiry into the circumstances of each case to make an estimate of the damage which every such master of an apprentice or servant enlisted as aforesaid sustained by the expense or charge to which he had been put on account of such apprentice or servant or by the trouble such master had taken and the time that had been spent in instructing such apprentice or servant in his trade, mystery or employment respectively to the time of his enlistment, for which the said master had received no satisfaction by the labor of the said apprentice or servant or otherwise.

[Section II.] And be it further enacted by the authority aforesaid, That the said Lynford Lardner, Thomas Cadwalader,

Joseph Fox, John Hughes, Joseph Galloway, John Baynton and John Morton, Esquires, or a majority of them, or of the survivors of them, shall and they are hereby enjoined, authorized and empowered, with the consent and approbation of the governor or commander in chief of this province for the time being, and not otherwise, to draw orders upon the trustees of the general loan office for such sum or sums of money, not exceeding the sum of twenty pounds, for each apprentice or servant, as they shall judge to be a reasonable compensation for the damage which the master of such apprentice or servant had sustained as aforesaid at the time of such apprentice's or servant's enlistment, which orders so drawn the said trustees shall pay and discharge out of and with the moneys already received or to be received by them on the sale of bills of exchange drawn by virtue of the act hereinbefore recited and not already appropriated, anything in the said act to the contrary notwithstanding; and the orders so drawn and paid, being produced to the committee of assembly for the time being appointed to settle the public accounts shall be by them allowed in discharge of so much of the moneys by the said recited act directed to be burnt, sunk and destroyed.

[Section III.] Provided always and it is hereby declared, That no power or authority by this act given to the trustees of the general loan office aforesaid nor anything in this act contained is intended or shall be so construed as to enlarge or extend the power of the said trustees, or invest them with any right or authority to act in any respect whatsoever in the said office of trustees beyond or longer than the times and periods to which their said trusts are limited or intended to be limited or restricted by the several acts of assembly of this province heretofore made for that purpose, anything in this act to the contrary in any wise notwithstanding.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Act of Assembly passed March 12, 1778. Chapter 785.



## CHAPTER CCCCLXXXIX.

AN ACT DIRECTING THE CHOICE OF INSPECTORS AND FOR HOLDING THE GENERAL ELECTIONS IN THE COUNTIES OF LANCASTER, YORK, CUMBERLAND, BERKS AND NORTHAMPTON.

Whereas notwithstanding the just, fair and impartial method prescribed for electing members of assembly by the charter of privileges granted by the Honorable William Penn, Esquire, late Proprietary and governor in chief of the province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, to the inhabitants thereof, and of the several acts of assembly of the said province made in pursuance of the said charter for the more free, impartial and peaceable election of members to serve in the general assembly of the said province, and and [sic] of sheriffs, coroners, commissioners, assessors and of inspectors to assist in the said election, it was nevertheless found, upon experience, that the method formerly precribed by the laws of this province for choosing inspectors to assist the sheriff and for receiving the poll or votes at the said election did not answer the good purpose for which it was intended, but great numbers of disorderly persons, many of whom not being qualified to vote for members of assembly, mixed themselves among the electors at the time of choosing inspectors and by their rude and disorderly behavior disturbed the electors in the said counties and created strifes and quarrels, to the great danger and disquiet of the peaceable people there met together and in delay of the said elections; and forasmuch as it often happened that the inspectors were chosen most, or all of them, out of one part of the county, and by reason thereof could not be so well acquainted with the estates and circumstances of all the electors, which was one of the principal ends of their appointment, for remedy of which inconveniences divers acts of general assembly of this province have been passed for amending the several acts for electing members of assembly, and it being found by experience that the manner of electing inspectors in the said counties of Lancaster, York, Cumberland, Berks and Northampton in and by the aforesaid acts directed and enjoined did not altogether remove the difficulties or answer the good ends proposed, for remedy whereof one other act of general assembly of this province, entitled "An act for directing the choice of inspectors in the counties of Chester, Lancaster, York, Cumberland, Berks and Northampton," was made and passed in the twenty-fifth year of His late Majesty's reign, which, by experience, hath been found to be of great use in the said counties of Lancaster, York, Cumberland, Berks and Northampton, but as the said act with the supplements for continuing and reviving the same were temporary, they are now near expiring by their own limitation.

And whereas also some doubts have arisen concerning the duty of the inspectors at the general elections for choosing members of assembly, in receiving the tickets or votes from the freemen, electors in their several townships, and keeping the same in separate boxes until the freemen have finished voting; and it being represented that some of the inspectors at the said general elections in some of the counties aforesaid after receiving many votes or tickets from the freemen of their said townships and lodged the same in a small box by them kept for that purpose and before closing the polls or receiving all the tickets from the freemen and voters at the said general election attending to vote have, contrary to their duty, departed from the courthouse or other place where the said general elections have been held and carried with them the box by them kept as aforesaid with the tickets or votes of the freemen therein to places to the sheriff or other judges of the said election unknown, whereby great frauds might have been and should the like practice continue may be committed.

For preventing whereof for the future and for the better settling and establishing a free, impartial, fair and peaceable election of members to serve in the general assembly of the said province and of sheriffs, coroners, commissioners, assessors and of inspectors to assist in the said elections for the said counties of Lancaster, York, Cumberland, Berks and Northampton:

[Section I.] Be it enacted by the Honorable James Hamilton,

<sup>1</sup> Passed May 10, 1753, Chapter 396.

# 1762-63] The Statutes at Large of Pennsylvania.

Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the freeholders and others qualified to elect members of assembly in each township in the respective counties of Lancaster, York, Cumberland, Berks and Northampton shall meet on the twenty-seventh day of September yearly, but if the same shall happen upon a Sunday, then upon the day next before, at some convenient place within their said respective townships, to be appointed by the constable of the said township, or in case of his absence, neglect or refusal, then at such convenient place within such townships as the overseers of the poor shall appoint; and the said electors being qualified to vote for members of assembly shall, between the hours of nine in the forenoon and three in the afternoon of the same day, during all which time the election shall continue, in the presence of the constable and two such freeholders as he shall call to his assistance, or in case of his absence, neglect or refusal, the overseer of the poor, proceed to elect by balloting one able and discreet freeholder residing within the said township, who may be supposed to be best acquainted with the estates and circumstances of the inhabitants, the name of which person so nominated and chosen is to be taken down in writing by the constable or overseer of the poor, as the case shall happen, with the name of the township for which he is chosen, and shall be delivered to the sheriff at the place of election or to such person or persons as shall happen to be judges of the election before the hour of nine in the forenoon of the day whereupon the election of members of assembly shall happen, who shall, for that year, be inspectors of the election and as such shall be declared and published by the sheriff, in the presence of the electors or so many of them as shall be present.

[Section II.] And be it further enacted by the authority aforesaid, That before the said inspectors proceed to act in assisting the sheriff to receive the poll or votes of the said electors,

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they shall be qualified by oath or affirmation by the sheriff of the proper county or other judges of the said election, who are necessary required and empowered to administer the same:

"That they, the said inspectors, will duly attend the ensuing election during the continuance thereof and well, truly and faithfully assist the sheriff, coroner or other judges of the said election to prevent all frauds and deceits whatsoever of electors or others in carrying on the same, and in causing the poll or votes at such election to be taken, marked off upon their respective lists and east up as is by this act and by an act passed in the fourth year of the late Queen Anne, entitled 'An act to ascertin the number of members of assembly and to regulate elections,' directed and enjoined." 1

And the inspectors shall and they are hereby authorized to administer to every elector or person who presents his ticket an each or affirmation in the words directed by the aforesaid last-mentioned act of assembly unless the qualification of such elector be generally well known or some one or more of the said inspectors shall and will openly declare to the rest that they know such elector to be qualified as in the aforesaid act of assembly is required; and the votes or tickets of such as offer to poll and refuse to take the said oath or affirmation shall be openly rejected; and the votes or tickets of every person who takes the said oath or affirmation shall, with the other lawful tickets or votes, be put into the box of the inspector who receives the same for that purpose now or hereafter to be provided, and no tickets so received shall be suppressed.

[Section III.] Provided always, and be it further enacted by the authority aforesaid. That the inspectors of the several town ships within the said counties, if present, shall receive the votes or tickets of the electors of the townships for which they are chosen, and no other, or in case of their absence, the inspector of one of the adjoining townships, and that no votes or tickets shall be taken or allowed unless such votes or tickets be so as aforesaid received; and the name of every person shall be marked off by the inspectors aforesaid at the time of his voting, by writing the word (voted) in the margin of the lists of the taxables of their respective townships, to be lodged in the hands

<sup>1</sup> l'assed January 12, 1705-6, Chapter 137.

of the said inspectors for the purposes aforesaid as is hereinafter directed.

And to the end this act may be duly executed and the peace preserved:

[Section IV.] Be it enacted by the authority aforesaid, That the constables of the respective townships within the counties aforesaid, or in case of the death, neglect or absence of the said constables, then the overseers of the poor of such township, or one of them, shall, at least six days before the said twentyseventh day of September in every year, give public notice in writing by affixing the same at the most public places in the respective townships of the place where the inhabitants of the township in which they live shall meet to elect a fit person according to the direction of this act, and that the said constable, or in his absence, the overseer of the poor, as aforesaid, shall there attend at the time appointed in this act, and such constable or overseer of the poor shall call to his assistance two substantial freeholders of the said township being there present, who shall assist them in judging of the said election and in taking the votes, and who, together with himself, shall, as soon as the said election is closed, certify, under their hands and seals, that such person was elected by a majority of lawful votes, by the township to which he belongs, whereof the said constable or other judge of the election as aforesaid shall immediately give notice to the person so elected, that he may give his attendance at the ensuing election for members of assembly accordingly. And the said constable or other judge of the election shall likewise at the same time furnish the inspector so chosen with an alphabetical list of the names of all the taxables within the said township to enable him the better to judge of the qualifications of the electors at the ensuing election for members of assembly, which said lists the collectors of the respective townships are hereby required and enjoined to furnish when demanded for the purposes aforesaid under the penalty of two pounds ten shillings, to be recovered by any person who will sue And the certificate so as aforesaid taken of the for the same. person elected by a majority of lawful votes in the township to which he belongs shall be delivered by the constable to the

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<sup>1</sup> Page to wa counties of Lin Caster, York, Cumberland,

# 1762-63] The Statutes at Large of Pennsylvania.

Berks and Northampton, and qualified in manner and form aforesaid, and they are hereby enjoined and required from and after the freemen of their respective townships have finished voting to deliver his and their box with the votes or tickets therein to the sheriff, coroner, inspectors and other judges of the said election, by him and them safely to be kept until the whole election be over, the polls closed, and the sheriff, coroner, inspectors and other judges of the said election proceed to read, count and cast up the votes. And if any inspector chosen and qualified as aforesaid in any of the said counties of Lancaster, York, Cumberland, Berks and Northampton shall presume on any pretence whatsoever to carry and bear away out of and from the court-house or other place for holding the election for members of assembly his separate box, with the votes or tickets therein, every such inspector so offending shall forfeit and pay the sum of five pounds, one-half thereof to be paid to the overseers of the poor for the use of the poor of the township for which such inspector is chosen to serve, and the other half to him or them that will sue for the same.

[Section VII.] And be it further enacted by the authority aforesaid, That in case any inspector chosen and qualified as aforesaid from necessity be obliged to leave the court-house or other place for holding the election aforesaid in any of the said counties of Lancaster, York, Cumberland, Berks and Northampton during the time of such election, every such inspector, before his departure from and leaving the court-house or other place for holding the said election, shall deliver his separate box, with all the votes or tickets then by him received and lodged therein to the sheriff or coroner and other judges of the said election by him and them safely and securely to be kept in a chest or trunk by the sheriff or coroner for that purpose to be provided until such inspector can or may be able to return to his station and duty under the like penalty and forfeiture above mentioned, to be paid and recovered in manner aforesaid. And in case of sickness or other inability of such inspector returning and performing the residue of his duty then and in such case the sheriff, coroner and other judges of the said election shall and may deliver the said box, with the votes and tickets therein, to the inspector of any one of the adjacent townships, who shall receive and take in the residue of the votes and tickets from the freemen of the township whose inspector became sick or otherwise disabled from performing his duty therein.

[Section VIII.] And be it further enacted by the authority aforesaid, That the sheriff of the respective counties of Lancaster, York, Cumberland, Berks and Northampton, shall, at the expense of the county, provide and keep a good, substantial strong chest or trunk, with a lock and key thereto, and cause the same, in the morning of the day of every election for choosing members of assembly, to be brought into the court-house or other place for holding the said elections, and in the same chest or trunk deposit and lodge the boxes of the several inspectors, with the tickets and votes therein, when and so often as any of the inspectors may have occasion to leave the court-house or other place of election, or when any of the inspectors shall declare they have received and taken all the votes belonging to their respective townships.

[Section IX.] And be it further enacted by the authority aforesaid, That every sheriff, coroner or other judges of the said election, with the inspectors chosen and returned as aforesaid, or a majority of them, shall and they are hereby required, in the morning of the day of the said election, and before they open or begin the same election, to call to their assistance at least four reputable freeholders of the county to be their assistant judges at the same election and administer to the said freeholders the following oath or affirmation:

"That they, the said assistant judges, shall and will duly attend the ensuing election during the continuance thereof, and truly and faithfully assist the sheriff, coroner, inspectors or other judges of the said election to prevent all frauds and deceits whatsoever of electors or others in carrying on the same."

And after the representatives to serve in the general assembly of this province shall be chosen, their names shall be written in a pair of indentures, sealed between the said sheriffs and the freeholders, his assistant judges of the said election and at least six of the inspectors then present.

[Section X.] Provided always, That nothing herein contained shall be deemed or taken to alter or make void the act of

general assembly made in the fourth year of the late Queen Anne nor the act passed in the nineteenth year of his late Majesty's reign nor anything therein or in either of them, but that every clause, article and sentence in the said acts or either of them contained, except what is hereby expressly altered or supplied, shall be and remain in full force and virtue as the same were before the making of this act.

[Section XI.] Provided also, and be it further enacted by the authority aforesaid, That this act shall continue in force for the term of seven years, and from thence to the end of the next sessions of assembly and no longer.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed March 11, 1752, Chapter 396. Repealed by the Act of Assembly passed February 8, 1766, Chapter 539.

### CHAPTER CCCCXC.

AN ACT CONCERNING CATTLE, HORSES AND SHEEP TRESPASSING WITHIN THIS PROVINCE.

Whereas the laws of this province heretofore made to prevent horses, cattle and sheep from trespassing and breaking into lawful inclosures have proved ineffectual.

For remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any horse, mare, colt, cattle or sheep after the publication of this act shall trespass by breaking into the inclosure of any person or persons within this province, the same

being made according to the act, entitled "An act for erecting pounds in each township of this province," every such person being injured by such trespass may seize and distrain such horse, mare, colt, cattle or sheep, and the same so seized and distrained may retain until he shall recover and receive the damages sustained by such trespass, together with the costs of advertising and reasonable charges for keeping such distress in manner hereinafter directed.

[Section II.] And be it further enacted by the authority aforesaid, That every person or persons making such distress shall, within the space of forty-eight hours after the same shall be made, give notice thereof to the owner or owners of such horse, mare, colt, cattle or sheep if he, she or they can be conveniently found, but if not then such person or persons seizing or distraining such creature shall, within three days after such distress taken as aforesaid, cause an advertisement of the marks, brands, stature and color thereof and of the place where the same may be found, to be affixed at the most frequented and public place of his, her or their township; and if, upon such notice or advertisement, such owner or owners shall appear but neglect or refuse to make or tender a reasonable satisfaction to the party injured for the damages sustained by such trespass and in keeping the said creature, or if the said person or persons so making such distress shall not accept the said satisfaction, it shall and may be lawful for either of the parties aforesaid to complain and apply to any justice of the peace of the county where such creature shall [shall] be seized and distrained as aforesaid, who shall, upon such complaint and application, issue his warrant, directed to two reputable and honest freeholders of the neighborhood, commanding and enjoining them forthwith to view the said trespass and to value, appraise and ascertain the injury and damage done to or within the inclosure aforesaid (having regard to the lawfulness of said fence), with the expense and costs of keeping the said creature, and to make report thereof to [him], the said justice, with all convenient speed; which said valuation and appraisement and return they, the said freeholders, are hereby enjoined and required to make accord-

<sup>1</sup> Passed May 10, 1729, Chapter 301.

ingly. And if the said valuation and appraisement shall not amount to more than the sum of money tendered to the party injured as a recompense for the damage done as aforesaid before such complaint made, then the said justice shall give judgment for the same only to the party refusing such tender and award reasonable [costs and] charges to the other party for the unjust vexation; but if the said valuation shall amount to more than the sum tendered or if no such tender be made, then and in that case the said justice shall award and give judgment for the valuation aforesaid to the party injured, with reasonable costs and charges for keeping the said creature so trespassing against the other party, and shall award execution upon every such judgment, with costs of suit accordingly.

[Section III.] And be it further enacted by the authority aforesaid, That if no owner or owners shall appear and make out his or their property in the said creatures within two weeks after such advertisements shall be published in the townships aforesaid, the person or persons making such distress shall forthwith, under the penalty of five pounds, publish the like advertisement as aforesaid three times in the Pennsylvania Gazette, and shall and may make application at the expiration of two months after the publication of the same advertisements to the said justice of the peace, who is hereby authorized and required to issue his warrant to two honest and reputable freeholders and cause them, upon their oath or affirmation, which he is hereby empowered and required to administer to them, to view, value and appraise the creature or creatures so distrained and to ascertain the damage so done as aforesaid, with reasonable charges for keeping the said creature, and to make return thereof to him as aforesaid; upon which valuation and return the property of and in the said creatures so valued shall become and be held and taken to be and is hereby vested in the person so making such distress; but so nevertheless that he shall be answerable and accountable to the owner or owners aforesaid for the valuation money aforesaid at any time afterwards within the space of one year next after the publication of such advertisements last aforesaid, having first deducted thereout the costs of such proceedings, advertisements and charges of keeping the

said creature with the damages so ascertained; but if the said owner or owners shall not appear and demand the same within the time limited last aforesaid, then the said person or persons so making such distress shall, upon demand made, pay all such overplus money to the overseers of the poor of the township where he, she or they shall reside for the use of the poor thereof, under the penalty of double the sum detained in his, her or their hands contrary to the direction of this act.

[Section IV.] And be it further enacted by the authority aforesaid, That if any such person or persons so distraining shall neglect to give such notice as hereinbefore is directed or shall neglect to set up and publish such advertisements in the most public place of his, her or their township, he, she or they shall forfeit and lose all right or title or pretense of right to a recovery of any sum or sums of money for such trespass, or any recompense for the same; but shall deliver up the said creature so distrained to the owner or owners thereof without any recompense, fee or reward whatsoever; and that one-half of all the fines imposed by virtue of this act shall be to the use of the owner or owners of such creature and the other half thereof to the overseers of the poor of the said township for the use of the poor thereof, to be recovered by them, or either of them, in a summary way as debts not exceeding five pounds are by law directed to be recovered.

[Section V.] And be it further enacted by the authority afore-said, That if any person or persons shall knowingly and wittingly keep and retain any horse, mare, colt, cattle or sheep within his, her or their inclosures for the space of forty-eight hours without giving notice and publishing the advertisements aforesaid, every such person or persons shall forfeit and pay the sum of five pounds for every such offense, to be recovered and applied in manner aforesaid.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the notes to (the two acts of) November 27, 1700, Chapters 56, 77; January 12, 1705-6, Chapter 158; May 9, 1724, Chapter 279; (the two acts of) May 10, 1729, Chapters 301, 303; and see the Acts of Assembly passed April 5, 1779, Chapter 842; March 13, 1780, Chapter 892; April 2, 1781, Chapter 934; March

27, 1784, Chapter 1089; March 7, 1800, Chapter 2120; April 1, 1805, P. L. 194; April 13, 1807, P. L. 286; March 28, 1808, P. L. 163; March 20, 1810, P. L. 160; March 25, 1813, P. L. 170; March 29, 1813, P. L. 230; February 25, 1814, P. L. 66; March 14, 1814, P. L. 96; January 25, 1816, P. L. 8; February 17, 1816, P. L. 69; March 5, 1819, P. L. 87; March 28, 1820, P. L. 171; April 2, 1821, P. L. 206; March 29, 1824, P. L. 126; April 1, 1831, P. L. 342; January 10, 1832, P. L. 12; May 4, 1832, P. L. 480; April 15, 1834, P. L. 537; February 24, 1807, P. L. 164, April 18, 1853, P. L. (1854) 825; April 26, 1855, P. L. 316; April 27, 1855, P. L. 351; March 26, 1857, P. L. 124; April 15, 1857, P. L. 196; March 5, 1858, P. L. 78; February 25, 1859, P. L. 79; February 15, 1860, P. L. 55; February 22, 1860, P. L. 68; March 25, 1861, P. L. 204; April 17, 1861, P. L. 323; April 5, 1862, P. L. 250; April 11, 1862, P. L. 496; April 11, 1863, P. L. 322; April 14, 1863, P. L. 453; April 15, 1863, P. L. 501; April 9, 1864, P. L. 369; May 7, 1864, P. L. 885, March 21, 1865, P. L. 444; March 23, 1865, P. L. 675; February 9, 1866, P. L. 23; March 27, 1866, P. L. 332; (the three acts of) April 11, 1866, P. L. 562, 703, 737; June 26, 1866, P. L. 1114; April 2, 1867, P. L. 683; April 3, 1867, P. L. 691; April 8, 1867, P. L. 940; (the five acts of) April 10, 1867, P. L. 996, 1021, 1071, 1082, 1128; April 13, 1867, P. L. 1224; March 12, 1868, P. L. 301; March 18, 1868, P. L. 376; March 24, 1868, P. L. 443; April 1, 1868, P. L. 573; April 2, 1868, P. L. 627; (the two acts of) April 4, 1868, P. L. 702, 707; April 14, 1868, P. L. 865; (the two acts of) April 14, 1868, P. L. 1121, 1122; March 17, 1869, P. L. 379; March 27, 1869, P. L. 550; (the two acts of) April 2, 1869, P. L. 670, 672; April 9, 1869, P. L. 800; April 10, 1869, P. L. 832; April 13, 1869, P. L. 892; (the two acts of) April 17, 1869, P. L. 1137, 1152; February 18, 1870, P. L. 158; February 24, 1870, P. L. 230; (the two acts of) March 15, 1870, P. L. 431, 433; March 18, 1870, P. L. 489; (the three acts of) March 28, 1870, P. L. 564, 576, 580; (the two acts of) April 1, 1870, P. L. 743, 773; (the three acts of) April 4, 1870, P. L. 838, 844, 862; (the three acts of) April 5, 1870, P. L. 878, 896, 905; (the two acts of) April 13, 1870, P. L. 1125, 1137; April 14, 1870, P. L. 1170; (the two acts of) February 18, 1871, P. L. 102, 105; March 9, 1871, P. L. 205; March 17, 1871, P. L. 411; (the two acts of) May 6, 1871, P. L. 598, 600; (the two acts of) May 20, 1871, P. L. 1022, 1042; (the two acts of) May 20, 1871, P. L. 1118, 1119; May 26, 1871, P. L. 1194; (the two acts of) May 29, 1871, P. L. 1279, 1281; (the three acts of) June 2, 1871, P. L. 1293, 1295, 1323; February 21, 1872, P. L. 128; (the two acts of) March 9, 1872, P. L. 280, 295; March 19, 1872, P. L. 438; (the two acts of) March 23, 1872, P. L. 510, 550; March 30, 1872, P. L. 672; (the two acts of) April 3, 1872, P. L. 811, 895; April 9, 1872, P. L. 1052; (the two acts of) February 19, 1873, P. L. 132, 134; February 27, 1873, P. L. 171; (the two acts of) February 28, 1873, P. L. 185, 187; (the two acts of) March 18, 1873, P. L. 305, 310; March 27, 1873, P. L. 437; (the three acts of) March 28, 1873, P. L. 458, 459, 460; April 8, 1873, P. L. 565; (the seven acts of) April 10, 1873, P. L. 621, 650, 651, 665, 700, 733, 818; May 11, 1874, P. L. 294; May 16, 1878, P. L. 55; (the two acts of) May 22, 1878, P. L. 96, 99; June 8, 1881, P. L. 75; April 26, 1889, P. L. 64; May 31, 1893, P. L. 185.



#### CHAPTER CCCCXCI.

A SUPPLEMENT TO AN ACT, ENTITLED "AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF A CERTAIN TRACT OF MARSH AND MEADOW LAND THEREIN DESCRIBED, SITUATE IN THE COUNTIES OF PHILADELPHIA AND CHESTER, TO KEEP THE BANKS, DAMS, SLUICES AND FLOODGATES IN REPAIR AND TO RAISE A FUND TO DEFRAY THE EXPENSE THEREOF." 1

Whereas in and by a certain act of general assembly, entitled "An act to enable the owners and possessors of a certain tract of marsh and meadow land therein described, situate in the counties of Philadelphia and Chester, to keep the banks, dams, sluices and flood-gates in repair and to raise a fund to defray the expense thereof," Isaac Pearson, John Paschal and John Smith, gentlemen, were appointed and empowered, within three months from the publication of the said recited act to divide the banks which surround and include the marsh and meadow ground therein described and to allot and appoint how many perches of the said banks each owner or possessor of the said meadow ground should make, repair and support.

And whereas the said Isaac Pearson, John Paschall and John Smith have not hitherto made such allotment nor divided the banks contained within the Southern District of the said meadow land agreeable to the authority of the said act, and the time therein limited for the same is long since expired and the owners of the said division as yet know not what part of the said banks they ought to support and maintain.

For remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the

<sup>&</sup>lt;sup>1</sup> Passed February 17, 1762, Chapter 474.

same, That Samuel Rhoads, Isaac Pearson and George Grey, gentlemen, or any two of them, shall be and are hereby authorized and appointed to divide the banks which surround and include the marsh and meadow land within the said Southern District and allot and appoint how many perches of the said banks each owner or possessor shall make, repair, maintain and support in like manner and in the same proportion as is directed in and by the said recited act of assembly, which said divisions and allotments so made and certified by an instrument under their hands and recorded in the office for recording of deeds in the county of Chester shall be of the same validity, force and effect as if the same had been made and done within the time limited for making the same as aforesaid and agreeable to the said recited act by the said Isaac Pearson, John Paschall and John Smith, anything in the said recited act of assembly to the contrary notwithstanding.

And whereas the said Isaac Pearson, John Paschall and John Smith have, in pursuance of the authority given them in and by the said recited act divided and allotted the banks which surround the Northern District of the said meadow land, but the same was made after the time limited in the said act for the making thereof:

[Section II.] Be it therefore enacted by the authority aforesaid, That the said division and allotments so as aforesaid made by the said Isaac Pearson, John Paschall and John Smith shall be of the same force, validity and effect as if the same had been divided and allotted within the time mentioned and specified in the said act, provided a certificate of such division and allotment, under the hands of them, or any two of them, be recorded in the office for recording of deeds in the county of Philadelphia, anything in the said recited [act] <sup>1</sup> to the contrary notwith-standing.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed February 17, 1762, Chapter 474.

<sup>1</sup> This word is not printed in the original roll.

## CHAPTER CCCCXCH.

AN ACT FOR ENLARGING AND EXTENDING THE SOUTHERN DISTRICT OF DARBY MARSH OR MEADOW GROUND.

Whereas by an act of general assembly of the province of Pennsylvania, entitled "An act to enable the owners and possessors of the Southern District of Darby marsh or meadow ground, in the county of Chester, to embank and drain the same, to make and keep the outside banks and dams in good repair forever and to raise a fund to defray the yearly expenses accruing thereon," it is provided and enacted that two certain islands of marsh or cripple land, one called Hay Island and the other known by the name of The Little Island, situate on the west side of Darby Creek, at Calcoon Hook, in the township of Darby and county of Chester, and also one other piece of meadow ground for the most part drained, lying between Hay Island aforesaid and the shore or fast land, should be embanked and drained by the respective owners thereof under certain rules and regulations in the said act specified.

And whereas in pursuance of the said recited act the owners of the said two islands have not only proceeded on and nearly perfected the banks and dams surrounding the same, but also inclosed within the limits of their said improvements a certain other piece of marsh, cripple or meadow ground lying on the northeast side of a run of water called Hem-sprota, and between the Great Thoroughfare and fast land, and so extending easterly to Darby Creek and terminating at the end of an old bank at the shore by a laid-out road and landing near the house of George Morton, not only as the inclosing the same was done at less charge of banking, a saving of meadow ground, but also much better and more commodious in regard to a road or passage on and to the said meadows, and have likewise been at a very considerable charge in making a dam across the said Great Thoroughfare near the upper end thereof: Now, in order that

<sup>1</sup> Passed February 17, 1762, Chapter 475.

the said charge may be reimbursed and the said dam kept up and repaired in all future time, and to the end this last piece of marsh or meadow ground may be esteemed to be within the limits of the said Southern District of Darby Meadows, and for preventing disputes amongst the owners touching the premises and as a further encouragement for carrying on and finally perfecting the said improvement:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all that piece of marsh, cripple or meadow ground, situate and bounded as aforesaid, shall, at all times hereafter, be deemed and taken and the same land is hereby declared to be part of and within the limits of the Southern District of Darby Marsh or Meadow Ground, and that the charge and expense already accrued in making the dam across the Great Thoroughfare as aforesaid and repairing and maintaining the same in all future time as well as repairing the bank from the northwest end thereof to the shore or fast land, shall be paid and discharged by all the owners and possessors of meadow land within the limits of the said district in like manner as the other dams and banks belonging thereto are by the said recited act of assembly directed to be paid and discharged; yet so nevertheless that after the first repairing and amending the said bank out of the common stock of the said company it shall be set off and allotted in the same manner and by the same men, or any three of them, who are appointed to set off and allot the other banks of the said district by the before recited act, to some person or persons, owner or owners of land in the said district so enlarged and extended as aforesaid, who shall, at all times after such allotment, keep up the said banks so allotted to them respectively in good and substantial repair, wherein they shall be governed and directed by the said recited act.

[Section II.] And be it further enacted by the authority

aforesaid, That all and every the owner and owners of land within the before described piece of marsh, cripple or meadow ground or those who hereafter shall be owners thereof respectively shall be subject to all and every the like rules, orders, regulations, rates, charges and assessments, penalties and forfeitures, and also entitled to all the rights, liberties, privileges and benefits to which the owners of the lands within the Southern District first above mentioned are subject and entitled in and by virtue of the said hereinbefore recited act of assembly, and that the said rates, charges and assessments, penalties and forfeitures shall be levied and recovered in the same manner as other the rates, charges and assessments, penalties and forfeitures imposed in virtue of the said act are directed to be levied and recovered.

[Section III.] And be it further enacted by the authority aforesaid, That so much of the before recited act as prescribes or limits the northeasterly boundary of the said Southern District of Darby Marsh or Meadow Ground to begin at the fast land belonging to the heirs of Andrew Boon, Junior, deceased, on the west side of the run of water called Hem-sprota, thence along the side thereof to the Great Thoroughfare, then across the said thoroughfare to Hay Island, then up the said thoroughfare, by the course thereof so far as the new dam erected thereon, shall be and is hereby repealed and made null and void.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed February 17, 1762, Chapter 475.

#### CHAPTER CCCCXCIII.

AN ACT THE BETTER TO ENABLE THE PERSONS THEREIN NAMED TO HOLD LANDS AND TO INVEST THEM WITH THE PRIVILEGES OF NAT-URAL-BORN SUBJECTS OF THIS PROVINCE.

Whereas the Reverend Charles Magnus Wrangel, Doctor of Divinity, who was the subject of His Majesty the King of Sweden; Andreas Henry Groth and Frederick Kuhl, gentlemen, who were the subjects of His Majesty the King of Denmark; Lewis Weiss, gentleman, who was the subject of the King of Prussia; Nicholas Weaver, tailor, late of the Duchy of Deuxponts, in the German Empire; and Johannes Landaver [gentleman] of the Duchy of Wirtemberg, in Germany, Princes in amity with the Crown of Great Britain, have transported themselves into the Province of Pennsylvania and since their arrival and residence therein have always demeaned themselves peaceably and paid a due regard and obedience to the laws and government thereof.

And whereas the said Reverend Charles Magnus Wrangel, Andreas Henry Groth, Frederick Kuhl, Lewis Weiss, Nicholas Weaver and Johannes Landaver, being all of them Protestants and each and every of them having in demonstration of their zeal and affection for his present Majesty's person and government taken and subscribed the oaths and made, repeated and subscribed the declaration directed to be taken and subscribed by an act made in the first year of the reign of His Majesty, George the First, entitled "An act for the further security of His Majesty's person and government and the succession of the Crown in the heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Prince of Wales, his open and secret abettors," have humbly signified to the representatives of the freemen of this province their earnest desire of being made partakers of the benefits and privileges which the natural-born subjects of Great Britain do enjoy within the same; and it being but just and reasonable that those who have thus demeaned themselves within this province and given such testimony and proof of their obedience to the Crown of Great Britain should be secured in the enjoyment of their properties and enabled to enjoy lands and other real estate and encouraged in their laudable zeal and affection for the English government, we, the representatives of the freemen of the province of Pennsylvania in general assembly met do pray that it may be enacted:

[Section I.] And be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable

Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said Charles Magnus Wrangel, Andreas Henry Groth, Frederic Kuhl, Lewis Weiss, Nicholas Weaver and Johannes Landaver, and each and every of them, shall and they and every of them are hereby declared to be deemed, taken and held to all intents and purposes free and fully able to trade, traffic, load, freight and transport all and all manner of goods, wares [and] merchandises not by law prohibited to be imported or exported as if they and each of them had been natural liege people and subjects of the King of Great Britain born in this province, and also that they and each and every of them are hereby adjudged able and capable to all intents and purposes to take, receive, have, hold and enjoy all and all manner of lands, tenements, hereditaments and real estate by purchase or gift of any person or persons, bodies politic or corporate whatsoever and to sue, prosecute, pursue, maintain, avow and justify all and all manner of actions, suits and causes whatsoever and to have, hold and enjoy all and every the rights, liberties, privileges, advantages, benefits and immunities belonging to His Majesty's liege people and natural subjects born within this province as lawfully, fully and freely as if they and every of them had been or were born natural subjects within this province, any law, custom or usage to the contrary notwithstanding.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV. Section II.

### CHAPTER CCCCXCIV.

AN ACT FOR ALTERING AND ENLARGING THE TIME OF HOLDING THE COURTS OF GENERAL QUARTER SESSIONS OF THE PEACE AND GAOL DELIVERY IN THE COUNTY OF BUCKS, AND FOR ENLARGING THE TIME OF HOLDING THE COURTS OF GENERAL QUARTER SESSIONS OF THE PEACE AND GAOL DELIVERY IN [THE] COUNTY OF CHESTER.

Whereas by an act of assembly of this province, entitled "An act for establishing courts of judicature in this province," 1 passed in the eighth year of King George the First the time for holding the county courts of general quarter sessions of the peace and gaol delivery in the counties of Bucks and Chester respectively is limited to two days only in each session, which, at the time of passing the said act when the province was in its infancy, might be time sufficient for accomplishing the business in the said court: but inasmuch as the said counties have since grown more populous, and the business of the said courts as well as the number of inhabitants considerably increased, so that the time aforesaid for holding said courts is now found by experience to be insufficient to try and determine the issues and finish the other business in the said courts from time to time depending, to the great delay of justice, expense and trouble of the people of the said counties and also forasmuch as it will be more convenient and necessary that the said court of general quarter sessions of the peace and gaol delivery in the county of Bucks should begin earlier in the week than is by the said act directed.

For remedy whereof for the future:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the

<sup>1</sup> Passed May 22, 1722, Chapter 255.

same. That it shall and may be lawful to and for the justices of the courts of general quarter sessions of the peace and gaol delivery of the county of Bucks, and they are hereby enjoined and required to hold the said courts the ninth day following (inclusive) after holding the courts of general quarter sessions of the peace and gaol delivery in the county of Philadelphia in the months of March, June, September and December in each year, and not on the days and times in the afore recited act directed and appointed.

[Section II.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the justices of the said courts in the counties of Bucks and Chester respectively, and they are hereby enjoined and required to hold the said courts for and during the space of three days in each session, if occasion be, and to adjourn over from day to day for that purpose, anything in the said act of assembly to the contrary in any wise notwithstanding.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed May 22, 1722, Chapter 255; and the Acts of Assembly passed September 7, 1789, Chapter 1427; April 13, 1791. Chapter 1575; March 15, 1800, Chapter 2142; February 24, 1806, P. L. 334; February 13, 1811, P. L. 45; February 20, 1816, P. L. 82; March 12, 1821, P. L. 85; March 27, 1821, P. L. 136; April 2, 1822, P. L. 144; March 15, 1826, P. L. 115; April 14, 1834, P. L. 333; July 16, 1842, P. L. 374; April 22, 1850, P. L. 543; April 26, 1850, P. L. 611; March 18, 1875, P. L. 28; August 7, 1883, P. L. (1885) 323.

## CHAPTER CCCCXCV.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT FOR OPENING AND BETTER AMENDING AND KEEPING IN REPAIR THE PUBLIC ROADS AND HIGHWAYS WITHIN THIS PROVINCE." 1

Whereas by an act passed in the second year of His present Majesty's reign, entitled "An act for opening and better amending and keeping in repair the public roads and highways within this province," it was enacted that it should be lawful for the

<sup>1</sup> Passed February 17, 1762, Chapter 479.

supervisors of the public roads and highways within their respective districts of this province, in conjunction with the assessors of the several townships within their districts chosen by virtue of the act of assembly made in the thirty-first year of His late Majesty King George the Second, entitled "An act for granting to His Majesty the sum of one hundred thousand pounds," &c.,² to make or lay a rate or assessment not exceeding three pence in the pound, clear value of the real and personal estates of all and every the freeholders and inhabitants within their respective districts, to be employed for the opening, clearing, amending and repairing the several public roads and highways within their respective districts in such manner as by that act was directed.

Provided nevertheless, That the said rate or assessment should be laid according to the best of their skill and judgment and as near as might be to the county assessment for other purposes laid in pursuance of the act, entitled "An act for raising county rates and levies," having due regard to every man's estate within the respective district in which he is assessed, without favor or affection to any person whomsoever.

And whereas some doubts have arisen concerning the true intent and meaning of the said act in relation to the taxes to be raised and levied by virtue thereof:

[Section I.] Be it therefore enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the supervisors and assessors in and by the said act appointed and empowered shall make or lay a rate or assessment on the clear value of the real and personal estates of all and every the freeholders and inhabitants within their respective districts, to be employed for the opening, clearing, amending and repairing the public roads and highways within

<sup>&</sup>lt;sup>2</sup> Passed April 22, 1758, Chapter 431.

<sup>&</sup>lt;sup>1</sup> Passed March 20, 1724-25, Chapter 284.

their respective districts, in such manner as by the said act is directed and appointed.

Provided nevertheless, That no tax to be laid and levied in any one year shall exceed six pence in the pound.

Provided also, That the single men not having real or personal estates in the respective districts of this province shall be hereby excused and exempted from the rates and assessments imposed in and by virtue of this act and the act to which this act is a supplement.

[Section II.] And be it further enacted by the authority aforesaid, That this act shall be and continue in force for and during the continuance of the act to which this act is a supplement, and no longer.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed February 17, 1762, Chapter 479.

### CHAPTER CCCCXCVI.

AN ACT TO ENABLE CERTAIN PERSONS THEREIN NAMED TO ERECT A COURT-HOUSE AT EASTON, IN THE COUNTY OF NORTHAMPTON, AND TO LEVY A TAX ON THE INHABITANTS OF THE SAID COUNTY TO DEFRAY THE EXPENSE THEREOF.

Whereas by an act passed in the twenty-fifth year of the reign of the late King George the Second, entitled "An act for erecting the northwest part of Bucks into a separate county," it was enacted that Thomas Craig, Hugh Wilson, John Jones, Thomas Armstrong and James Martin, or any three of them, should purchase and take assurance to them and their heirs of a piece of land situated in some convenient place of the town of Easton, within the county of Northampton, in trust and for the use of the inhabitants of the said county, and thereon to erect and build a court-house and prison sufficient to accommodate the public service of the said county and for the ease and conveniency of the inhabitants; and that for the defraying the charges

<sup>1</sup> Passed March 11, 1752, Chapter 393.

of purchasing the land, building and erecting the court-house and prison aforesaid, it should be lawful for the commissioners and assessors of the said county, or a majority of them, to assess and levy so much money as the said trustees, or any three of them, should judge necessary for purchasing the land and furnishing the said court-house and prison, provided the sum of money so to be raised did not exceed three hundred pounds current money of this province.

And whereas the said trustees have already raised and expended the sum of three hundred pounds and upwards in building a prison in the town of Easton in pursuance of the act hereinbefore mentioned, and as no further provision is made by the said act for raising any further sums of money for the purposes aforesaid, whereby the good purposes of the said act may be defeated.

For remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That it shall and may be lawful for the commissioners and assessors of the said county of Northampton, or a majority of them, to assess and levy, and they are hereby authorized and required to assess and levy so much money on the said county as John Jones, Thomas Armstrong, James Martin, John Rinker and Henry Allshouse, gentlemen, or any three of them, shall judge necessary for building a court-house and finishing the prison already erected, provided the sum so raised shall not exceed the sum of four hundred and fifty pounds current money of this province, anything in this act or in the act hereinbefore mentioned to the contrary notwithstanding.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Acts of Assembly passed September 20, 1766, Chapter 544; March 23, 1860, P. L. 247; April 8, 1868, P. L. 739; June 1, 1883, P. L. 58; April 26, 1889, P. L. 55.

## CHAPTER CCCCXCVII.

AN ACT FOR REGULATING THE FINES IMPOSED UPON THE ASSESSORS CHOSEN OR TO BE CHOSEN WITHIN THIS PROVINCE.

Whereas by an act of general assembly of this province passed in the eleventh year of the reign of King George the First, entitled "An act for raising county rates and levies," it was, amongst other things, enacted that if any of the assessors being chosen according to the directions of the said act should refuse or neglect to do their duty, the commissioners of the proper county, or any two of them, should fine every such assessor in any sum not exceeding ten pounds, which should be levied by one of the same commissioner's warrants as in [the] said act is directed and appointed.

And whereas by a subsequent act of assembly passed in the twenty-ninth year of the late King George the Second, entitled "An act for granting the sum of sixty thousand pounds to the King's use," &c.,2 the fine upon assessors refusing or neglecting to act, was raised to twenty pounds for every such refusal or neglect, which, by one other act passed in the thirty-first year of the same reign, entitled "An act for striking the sum of fiftyfive thousand pounds," &c.,3 was again raised, and the fines imposed on the assessors who should refuse or neglect to perform and discharge the duties required of them by that act and the act, entitled "A supplement to the act for granting sixty thousand pounds to the King's use," &c.,1 was made fifty pounds; which said fine of fifty pounds has been continued by several subsequent acts of general assembly of this province without any provision for abatement or mitigation of the said fine as the particular circumstances of the assessors so chosen or to be chosen by virtue of the said acts might require.

And whereas it has been represented to this house that the

<sup>1</sup> Passed March 20, 1724-25, Chapter 284.

<sup>&</sup>lt;sup>2</sup> Passed November 27, 1755, Chapter 406.

<sup>3</sup> Passed June 17, 1757, Chapter 423.

<sup>1</sup> Passed March 23, 1757, Chapter 422.

fines on all county, township and ward assessors for refusing or neglecting to serve the offices for which they were respectively chosen by virtue of the last-mentioned acts imposed are very heavy and burdensome, inasmuch as they are fixed at fifty pounds, without leaving any discretionary power to remit the same, though the case may really require it, as it is found on experience that some have been chosen for the said offices not qualified to execute the duties thereof, others just after being chosen have been obliged to leave the province on urgent business, that some are not of ability to pay the fine and others in or just out of other offices in the city or county or have already served in the same or offices of the like kind for many years, all of whom think it a great hardship to serve again or be subject to the payment of so heavy a fine.

For remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and the counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same. That if any of the assessors chosen in any of the counties, townships or wards within this province by [virtue] of the acts hereinbefore mentioned, or any or either of them, shall refuse or neglect to do and perform the duties therein and thereby required of them as assessors of their respective counties, townships or wards, then and in every such case the commissioners of the respective counties, or any two of them, shall and they are hereby enjoined and required to fine every such assessor so refusing or neglecting to do his or their duties as aforesaid in any sum not exceeding fifty pounds, to be levied in the same manner that fines and forfeitures imposed and inflicted by the act for raising county rates and levies are directed and enjoined, and when recovered shall be added to the provincial stock, anything in the hereinbefore recited acts, or any or either of them, to the contrary notwithstanding.

[Section II.] Provided nevertheless, That this act shall [con-

tinue in force during] the terms of the sev[eral acts which impose the fine] of fifty pounds upon assessors refu[sing or neg]-lecting to discharge the [duties of assessors within] this province and no [longer].

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed March 20, 1724-25, Chapter 284, and the Acts of Assembly passed March 16, 1779, Chapter 828; November 27, 1779, Chapter 875; April 17, 1795, Chapter 1852; April 11, 1799, Chapter 2095; March 28, 1814, P. L. 267; March 10, 1823, P. L. 64; April 15, 1834, P. L. 509; February 28, 1835, P. L. 45; May 15, 1841, P. L. 393; July 15, 1897, P. L. 271.

### CHAPTER CCCCXCVIII.

AN ACT FOR ERECTING A HOUSE OF CORRECTION IN THE COUNTY OF LANCASTER.

Whereas it has been represented to this house by petition from a considerable number of the inhabitants of the borough and county of Lancaster that they now and for a long time have suffered most grievously, as well by unruly, disobedient servants as by idle, strolling vagrants from divers parts who have taken shelter in that county and borough; that drunkenness, profane swearing, breach of the Sabbath, tumults and other vices so much prevail that it is not in the power of the magistrates to suppress them and preserve peace and good order, having no house of correction for the punishment of such offenders.

And whereas the said county and borough of Lancaster have been erected and established since the passing an act of general assembly of this province for erecting houses of correction and work houses in the respective counties, passed in the fourth year of the reign of King George the First, by means whereof doubts have arisen concerning the power of the said county to erect houses of correction or workhouses within the said county.

<sup>1</sup> Passed February 22, 1717-18, Chapter 229.

For remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That it shall and may be lawful for the commissioners and assessors of the county of Lancaster, or a majority of them, to meet together as soon as conveniently may be after the passing of this act and as often thereafter as need be, and make orders for building, erecting or causing to be built and erected or provided a house of correction in the borough of Lancaster, with convenient yards thereunto adjoining, for doing and performing whereof all such orders as the commissioners and assessors in the said county, or the major part of them, shall from time to time take or set down for erecting the same shall be of full force and be duly performed and put in execution.

[Section II.] And be it further enacted by the authority aforesaid, That when the said house of correction shall be so erected and fully finished the same shall be assured unto such persons as the justices of the peace, or the major part of them, in their quarter sessions of the peace of the said county of Lancaster shall think fit to order and direct, in trust nevertheless to and for the public use of the said county, to be and remain as a house of correction for the said county, to be employed for the correcting and keeping at hard labor all rogues, vagabonds, sturdy beggars and idle and disorderly persons who, by the laws and usage of Great Britain or by the laws of this province, are to be kept, corrected or set to work in such houses of correction.

[Section III.] And be it further enacted by the authority aforesaid, That when the house of correction shall be erected and finished in the county of Lancaster, as is hereinbefore directed and appointed, it shall and may be lawful for the justices of the peace of the said county in their quarter sessions of the peace to certify their want of money for supporting the said house of correction and what sum and sums of money they shall

think necessary for the same to the commissioners and assessors of the said county; the said commissioners and assessors are hereby required and enjoined from time to time to set down and ascertain such sum and sums of money as they shall judge competent for the purposes aforesaid and to cause the same to be raised as county rates are usually raised and levied, so that they do not exceed the value of twenty-five pounds yearly.

[Section IV.] And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the justices of the peace of the said county, or the major part of them, in their court of general quarter sessions of the peace, or at such other times as shall be necessary, to nominate and appoint some discrect and sober person to be the keeper and manager of the said house of correction and all other such officers and persons as shall be needful and necessary to be employed in and about the same, and him or them, or any of them, to remove as they shall see cause, and upon such a removal, or in case of the death of the said keeper or other officer so to be appointed, to nominate and appoint others in their place and stead, and to settle such reasonable allowances for their services and for the support of the persons committed to the said house of correction as the said justices and commissioners shall think fit.

[Section V.] And be it further enacted by the authority aforesaid, That before any sum or sums of money or other stock hereafter to be raised for the purposes aforesaid shall be paid or delivered into the hands of the keeper or manager of the said house of correction, such keeper or manager shall give good and sufficient security to the commissioners and assessors of the said county to account for and pay to the commissioners and assessors for the time being the value of the principal sum of money or other stock to him delivered or paid for the purposes aforesaid in case of his death or removal from being keeper of the said house of correction.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed February 22, 1717-18, Chapter 229; and the Act of Assembly passed February 21, 1767, Chapter 555.

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### CHAPTER CCCCXCIX.

AN ACT FOR PREVENTING ABUSES IN THE INDIAN TRADE AND FOR SECURING AND STRENGTHENING THE PEACE AND FRIENDSHIP LATELY CONCLUDED WITH THE INDIANS INHABITING THE NORTHERN AND WESTERN FRONTIERS OF THIS PROVINCE.

Whereas the Indians living and hunting near the western and northern frontiers of this province have earnestly requested that this government would regulate the trade with them, prevent abuses therein and provide that they may be furnished with a sufficiency of the necessary goods by honest, prudent and sober men at reasonable rates, and that ministers of the gospel, schoolmasters and other sober and virtuous men may be sent among them to civilize and instruct them in the Christian religion; the granting of which requests may not only be productive of much good to these poor people, but tend to strengthen and secure the peace and friendship lately concluded between them and the English, and induce other and more distant nations to seek our alliance, effectually secure their affections to the British interest and open a trade with us, to the great advantage and better security of these colonies and increasing the demand for the manufactures of Great Britain.

And whereas by encouraging ministers of the gospel, school-masters and other prudent and virtuous men to reside among the Indians and learn their language and customs they may be civilized and instructed in the Christian religion and this government may from time to time be supplied with faithful interpreters and agents for the management of public affairs with those people from whence many advantages may arise, both to them and us; to answer which good purposes divers acts of assembly have lately been passed which are now near expiring, and it being judged necessary to continue the same remedies and prevent the abuses complained of that the Indian trade and the power and liberty of supplying the natives with goods, wares and merchandises should continue to be in the hands of the government in the manner hereinafter directed:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That John Reynell, William Fisher, Joseph Morris, [Joseph Richardson, merchant], Joseph Sims and John Gibson, gentlemen, shall be and [are] hereby nominated and appointed commissioners for Indian affairs; which said commissioners or a majority of them, or of the survivors of them, shall have full power and authority to do, execute and perform the several duties and things enjoined and required of them by virtue of this act during the continuance thereof, anything herein contained to the contrary notwithstanding; and shall, once in every year, adjust and settle their accounts with the assembly of this province for the time being, and shall be allowed for their trouble two and an half per centum on the purchase of the goods and two and an half per centum on the sale of the returns and no more, and that there shall be for each particular place appointed for carrying on the trade aforesaid, as often as there may be occasion during the continuance of this act, two suitable persons nominated and recommended for agents by the said commissioners for Indian affairs and returned in writing under the hands and seals of the said commissioners to the governor for the time being for his approbation and commission; and if the said governor will not, within five days next after such return, commissionate one of them so nominated and returned the person first named in the return shall be the agent and serve in that office without any further or other com-And in case any agent or agents chosen and commissionated by virtue of this act should refuse to serve, die, be removed by the commissioners for misbehavior or surrender up their said trust and office the said commissioners shall in like manner proceed to choose two suitable persons to supply his place and return them in manner aforesaid to the governor for the time being for his approbation; and if the governor will not,

within five days next after such return, commissionate one of them so nominated and returned, the person first named in the return shall be the agent and serve in that office without any further or other commission, which agent or agents shall reside in such fort or forts, place or places, as he or they from time to time shall be directed and instructed by the said governor and commander in chief of this province, by and with the approbation of the said commissioners for Indian affairs, or a majority of them or the survivors of them; which said commissioners, or a majority of them or of the survivors of them, shall constantly furnish and supply them, the said agents, with an assortment of Indian goods, which they, the said agents, shall exchange and barter with the Indians for their peltry at such rates as shall be from time to time settled and directed by the said commissioners for Indian affairs. And the said agent or agents so chosen and appointed as aforesaid shall, in all his or their transactions and dealings with the Indians in the way of trade or barter, conduct him or themselves according to the directions of this act and such instructions consistent therewith as he or they shall receive from the commissioners aforesaid for Indian affairs; which commissioners shall, with such sums as shall be granted and appropriated for that purpose, purchase from the importers or import, as shall be most conducive to the benefit of the said trade, and send out to the said agent or agents the necessary assortment of goods and merchandises for carrying on the Indian trade, and shall receive the peltry that shall be sent in as returns for the same and sell or dispose thereof by themselves or such other persons as they shall appoint in lots, by way of public auction, in the city of Philadelphia or in such other place as they shall think proper within this province, to the highest bidders, any law, usage or custom to the contrary in any wise notwithstanding, giving at least ten days' notice in the public newspapers of such sale, together with the particular assortments and qualities thereof and the time and place where the said auction is to be held, in which purchases and sales they shall use their utmost care, circumspection and diligence for the public interest.

[Section II.] And be it further enacted by the authority

aforesaid, That the said commissioners, or any or either of them, shall not, directly or indirectly, buy, sell, barter, exchange or trade with any Indian or Indians on his or their own account or on the account of any other person or persons whatsoever, nor suffer any person under his or their direction so to do during the continuance of this act, but for the account of the province only and in the manner directed by this act, under the penalty of one hundred pounds for every such offense, to be recovered in the same manner the other fines and penalties inflicted by virtue of this act are directed to be recovered, one-half thereof to the informer or the person that shall sue for the same and the other half part to be applied to the uses of the said Indian trade.

[Section III.] And be it further enacted by the authority aforesaid, That in settling the rates of exchanging and bartering with the Indians no greater advance shall be put on the goods to be furnished them than may be, in the judgment of the commissioners aforesaid, sufficient to bear and defray the necessary expenses of transporting, carrying on and managing the trade and for supporting such Protestant teachers of the Gospel to instruct the Indians in the principles of the Christian religion, school-masters and other persons to take care of and direct them in their temporal affairs as shall be most agreeable to them, which said teachers, school-masters and others so to be supported shall be appointed and commissionated by the governor and commander in chief of this province; and before they are commissionated by the governor and commander in chief of this province for the purposes aforesaid, they shall take the oaths appointed to be taken in and by an act passed in the first year of King George the First, entitled "An act for the further security of His Majesty's person and government and the succession of the Crown in the heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors," or, if conscientiously scrupulous of taking an oath, an affirmation instead thereof, and shall also make, repeat and subscribe the declaration in the said act mentioned. And if, upon final settlement of the accounts at the expiration of this act, it should appear that there is a surplus of profit, the same shall be paid into the hands of the provincial treasurer for the time being and disposed of in such manner and to such purposes as shall be hereafter directed by act of general assembly of this province.

[Section IV.] And be it further enacted by the authority aforesaid, That every agent so appointed and employed as aforesaid, before [he] takes upon himself the office and trust appointed and required by this act shall take an oath or affirmation before some justice of the peace of this province for the faithful discharge of his duty and the trust reposed in him by virtue of this act, and shall also enter into and duly execute an obligation with such sufficient sureties to his Majesty and his successors and in such penal sum as the said commissioners for Indian affairs shall require, that he will well and truly discharge and execute his trust and likewise observe such orders, instructions and directions consistent with this act as shall be sent to him from time to time by the said commissioners for Indian affairs, and that he will neither, directly or indirectly, buy, sell, barter, exchange or trade with any Indian or Indians on his own account or on the account of any person or persons whatsoever nor suffer any person under his direction so to do, but for the account of the province only, and that he will not employ any person or persons as assistants in trading with the Indians but such as shall be well recommended as honest, sober and prudent persons and approved of by the said commissioners for Indian affairs. And the said agent or agents shall keep fair and just accounts of all his or their transactions and dealings in the premises and deliver fair transcripts thereof into the hands of the said commissioners for Indian affairs at least once a year, and shall also settle and adjust the same yearly, or oftener if required, with the said commissioners, and shall have for his or their care and trouble in negotiating and transacting the business hereby committed to him or them and such as shall or may be employed as is hereinbefore directed in carrying on the trade with the Indians and other services relating thereto, such rewards or commissions as the commissioners aforesaid for Indian affairs shall judge reasonable and allow.

[Section V.] And be it further enacted by the authority aforesaid, That if any such agent or assistant, or person employed by him, shall presume to demand higher or greater prices or rates of the Indians for any goods sold them or exchanged or bartered with them than they are fixed at, or allow the Indians less for their peltry than directed and instructed to do by the said commissioners for Indian affairs, such agent or assistant or person employed by him shall forfeit and pay the sum of fifty pounds for every such offense, one-half thereof to be paid to the said commissioners for Indian affairs, to be disposed of by them in purchasing goods and carrying on the said trade, and the other half thereof to such person or persons that shall sue or prosecute for the same, to be recovered in any of His Majesty's courts of record within this province where the prosecutor shall think proper to commence his suit, by action of debt, bill, plaint or information, wherein no essoin, protection or wager of law shall be allowed to the defendant, nor any more than one imparlance, and the offender or delinquent shall thenceforth during the continuance of this act be altogether disabled from holding or exercising any office within this government.

[Section VI.] And be it further enacted by the authority aforesaid, That no person or persons whatsoever other than the said commissioners, their agents and their assistants, and such as are employed by them for account of the province, from and after the publication of this act shall presume to sell, exchange or barter with any Indian or Indians any cider, whiskey, wine, rum, brandy or any other strong liquor whatsoever within this province; nor shall any person or persons other than the commissioners, their said agents and their assistants, sell, exchange or barter with any Indian or Indians any goods, wares or merchandises whatsoever (provisions only excepted) beyond the Kittocktenny Hills on any pretense whatsoever.

Provided, That nothing herein contained shall be construed or extended to debar any inhabitant within the Kittocktenny Hills from selling, bartering or exchanging any goods, wares or merchandises other than spirituous liquors as aforesaid with such Indian or Indians as shall or may come to their own dwelling-houses for those purposes; and that every person and persons

offending in the premises being legally convicted thereof in any court of record within this province, shall forfeit and pay the sum of fifty pounds, to be recovered and disposed of in manner last aforesaid, and be committed to the public gaol during the space of six months, without bail or mainprise, any law or laws of this province to the contrary notwithstanding; and the said offense committed out of the inhabited parts of this province as aforesaid, shall be heard, tried and determined in any of the courts of this province where the person offending shall or may be arrested and apprehended.

[Section VII.] And be it further enacted by the authority aforesaid, That the said agents to be appointed as aforesaid and every of them, as often as they shall be informed or have reason to believe that any quantity of strong liquors, goods, wares and merchandises are carried out and transported beyond the Kittocktenny Hills with design to sell, barter and exchange the same with the Indians shall and they and every of them are hereby empowered and required, with their assistants and servants, to visit all suspected places and search for such strong liquors, goods, wares and merchandises, and being found beyond the limits aforesaid, to seize the same as forfeited, one-half thereof for the use of the person who shall prosecute for the same and the other half thereof to the commissioners for Indian affairs aforesaid, to be recovered in manner aforesaid in any court of record of this province in which the prosecutor shall think proper to file his bill, plaint or information and to be disposed of by them in manner last aforesaid.

[Section VIII.] And be it further enacted by the authority aforesaid, That where any agent so as aforesaid appointed shall be removed by the said commissioners for Indian affairs from his office of agent or surrender up his said office, he shall deliver up to the said commissioners for Indian affairs all the books, public accounts and papers belonging to or concerning the trade and trust committed to his care, whole and entire and undefaced, under the penalty of five hundred pounds, to be recovered in the manner and for the uses aforesaid, and where any agent shall be removed by death from his said office and trust the executors or administrators of such decedent shall deliver in like manner

all the books and papers that shall come to their hands relating to the accounts and transactions of the said trade to the succeeding agent or agents under the like penalty, to be recovered and applied in manner aforesaid.

Provided always, That nothing in this act contained shall repeal the clause or clauses in the said acts for preventing abuses in the Indian trade, &c., or either of them, which provides for the assuring and securing the loans to the respective lenders of any sum or sums of money to the late commissioners for the Indian trade, nor shall be construed to deprive such person or persons who have lent their money to the late commissioners upon the faith and credit of the said acts and of the securities and provisions for that purpose therein made, until the principal sums and the interest thereon due shall be paid to the said former lenders by the commissioners by this act appointed in the manner hereinafter directed.

[Section IX.] And be it further enacted by the authority aforesaid, That this act shall be in force for seven years from and after the publication thereof and no longer.

And whereas the commissioners for Indian affairs appointed in and by an act of general assembly of this province passed in the thirty-first year of King George the Second, entitled "An act for preventing abuses in the Indian trade," &c.,¹ by virtue and in pursuance of the said act and of one other act passed in the thirty-second year of the same reign, entitled "A supplement to the act, entitled 'An act for preventing abuses in the Indian trade,' "&c.,² have borrowed considerable sums of money and have given notes and certificates for the same whereby to raise a stock to carry on the Indian trade, and have therewith purchased goods and merchandise and sent them to their agents to supply the Indians as in and by the said act is directed:

[Section X.] Be it enacted by the authority aforesaid, That the said commissioners for Indian affairs so as aforesaid nominated and appointed shall and they are hereby required and enjoined to deliver up to the commissioners for Indian affairs nominated and appointed by this act all and singular the books.

<sup>1</sup> Passed April 8, 1758, Chapter 428.

<sup>&</sup>lt;sup>2</sup> Passed April 17, 1759, Chapter 438.

papers, goods, wares and merchandises that have or shall come to their hands, custody or power or which shall remain unsold at the time of passing this act, together with the profits thereof, if any; whereupon the commissioners for Indian affairs appointed by virtue of this act shall become liable for the payment of all such notes and certificates as have been heretofore given for moneys borrowed by virtue of former acts for carrying on the Indian trade.

And whereas, it hath been found by experience that the profits arising on the Indian Trade were insufficient to bear the burthen of interest on the sums borrowed in pursuance of former acts of assembly of this province, together with the losses to which the said trade has hitherto been subject, it is therefore thought necessary for the public interest to take up the sum of fourteen thousand pounds out of the sum of money granted by Parliament to this province for the year one thousand seven hundred and sixty, [for] nearly the whole whereof bills of exchange have been already drawn by the trustees of the general loan office, and the moneys arising from the sale of the said bills now remain in their hands:

[Section XI.] Be it therefore further enacted by the authority aforesaid, That it shall and may be lawful to and for the said trustees of the general loan office aforesaid and they are hereby enjoined and required to pay into the hands of the commissioners in this act named or to their order the said sum of fourteen thousand pounds, money of this province, out of the moneys arising by the Parliamentary grant aforesaid within ten days after the publication of this act for the several uses, intents and purposes hereinafter mentioned and declared, That is to say, for the use, intent and purpose of carrying on and prosecuting the said Indian trade and discharging the notes and certificates heretofore given for money borrowed by the former commissioners for Indian affairs.

[Section XII.] And be it further enacted by the authority aforesaid, That the commissioners aforesaid, upon the receipt of the moneys so by them to be received, shall forthwith pay off, satisfy and discharge all and every of the notes and certificates passed and signed by the former commissioners for Indian

affairs with the interest thereon due, and with the residue of the said moneys, together with the stock now in the hands of the former commissioners, their agents or factors, continue to carry on and prosecute the said Indian trade according to the true intent and meaning of this act, for receiving of which moneys from the trustees aforesaid and discharging the several debts and interest due upon the notes and certificates of the former commissioners the commissioners in this act named shall have and receive five shillings for every hundred pounds so received and paid, and no more.

[Section XIII.] And be it further enacted by the authority aforesaid, That the receipts of the said commissioners, or a majority of them, for the said sum of fourteen thousand pounds which they shall receive and take up from [the said] trustees of the said general loan office shall be produced to the committee of assembly for the time being and by them be allowed in discharge of so much of the moneys in the said trustees' hands arising from the sale of the said bills drawn for the moneys granted by Parliament as aforesaid.

[Section XIV.] And be it further enacted by the authority aforesaid, That the goods and stock in the hands of the said commissioners, their agents and factors, at the expiration of this act, shall be sold and converted into money, which money, with all other moneys then in the hands of the said commissioners belonging to the Indian trade aforesaid, not exceeding the said sum of fourteen thousand pounds, shall, on or before the tenth day of March, in the year of our Lord one thousand seven hundred and seventy, be paid into the hand [of] the provincial treasurer, to be sunk and destroyed in abatement of the taxes as if this act had never passed, anything herein contained to the contrary notwithstanding.

[Section XV.] And be it further enacted by the authority aforesaid, That the act of general assembly of this province, entitled "An act for preventing abuses in the Indian trade, for supplying the Indians, friends and allies of Great Britain, with goods at more easy rates, and for securing and strengthening the peace and friendship lately concluded with the Indians inhabiting the northern and western frontiers of this province," 1

and one other act, entitled "A supplement to the act for preventing abuses in the Indian trade, for supplying the Indians, friends and allies of Great Britain, with goods at more easy rates, and for securing and strengthening the peace and friendship lately concluded with the Indians inhabiting the northern and western frontiers of this province," <sup>2</sup> shall be and they are nereby repealed and made null and void.

Passed April 2, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the notes to the Acts of Assembly passed April 8, 1756, Chapter 428; April 17, 1759, Chapter 438; and the Acts of Assembly passed October 22, 1763, Chapter 505; February 17, 1768, Chapter 571; February 24, 1770, Chapter 608.

#### CHAPTER D.

AN ACT FOR REGULATING THE HIRE OF CARRIAGES TO BE EMPLOYED IN HIS MAJESTY'S SERVICE.

To prevent exorbitant demands for the hire of horses and wagons to be employed in His Majesty's service and for the better supplying the same:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That for the better and more regular provision of carriages and horses for His Majesty's forces in their marches, or for their arms, clothes or account ements, through the inhabited parts of this province, all justices of the peace within their several counties being duly required thereunto by an order from the governor or commander in chief of this province for the time

<sup>1</sup> Passed April 8, 1758, Chapter 428.

<sup>&</sup>lt;sup>2</sup> Passed April 17, 1759, Chapter 438.

being or the commanding officer of the King's forces so as aforesaid marching through the inhabited parts of this province. shall, as often as such order is brought and shown unto one or more of them by some one or more of the officers of the regiment, detachment, troop or company so ordered to march, issue out his or their warrants to the constables of the several townships from, through, near or to which such regiment, detachment, troop or company shall be ordered to march, requiring them to make provision of carriages with able men to drive the same, as is mentioned in the said warrant, allowing them sufficient time to do the same that the neighboring parts may not always bear the burden. And in case sufficient carriages cannot be provided within any such township or townships, then the next justice or justices of the peace of the county shall, upon such order as aforesaid being brought or shown to one or more of them by any of the officers aforesaid, issue his or their warrants to the constables of such next county or township for the purposes aforesaid to make up such deficiency. And the aforesaid officer or officers who, by virtue of the aforesaid warrant from the justices of the peace are to demand the carriage or carriages therein mentioned of the constable to whom the warrant is directed is and are hereby required at the same time to pay down in hand to the said constable, for the use of the person who shall provide such carriages and men, the sum of fifteen shillings per diem for every wagon or cart, with a driver, the said driver maintaining himself and horses, the load of each wagon or cart not to exceed twenty hundred weight, and the said constable is hereby required to give a receipt in writing to the person or persons paying the same. And such constable shall order and appoint such person or persons having carriages within their respective townships as they shall think proper, to provide and furnish [such carriages, horses and men according to the warrant aforesaid, who are hereby required to provide and furnish] the same accordingly. And if any military officer or officers for the use of whose troop or company the carriage was provided shall suffer any soldier or servant (except such as are sick) or any woman to ride in the wagon, cart or carriage aforesaid, or shall force any constable, by threatenings or menacing words to provide saddle horses for themselves or servants, or shall force horses from their owners by themselves, servants or soldiers, every such officer for every such offense shall forfeit the sum of five pounds to the use of the governor of this province for the time being for the support of government, proof thereof being made upon oath or affirmation before any one of His Majesty's justices of the peace of the same county, who is to certify the same to the paymaster of His Majesty's forces within this province, who is hereby required to pay the aforesaid sum of five pounds according to the order and appointment under the hand and seal of the aforesaid justice of the peace of the same county, who is hereby empowered to deduct the same out of such officer's pay.

[Section II.] And be it further enacted by the authority aforesaid, That if any constable shall willfully neglect or refuse to execute such warrants of the justice of the peace as shall be directed to them for providing carriages as aforesaid, or shall presume to take any horses or carriages from any person not residing within his respective township; or if any person or persons appointed by such constable to provide and furnish any carriage and man shall refuse or neglect to provide the same, or any other person or persons whatsoever shall willfully do any act or thing whereby the execution of the said warrants shall be hindered or frustrated, every such constable or other person or persons so offending shall, for every such offense, forfeit any sum not exceeding forty shillings nor less than twenty shillings to the use of the poor of the township where any such offense shall be committed, and all and every such offense shall and may be inquired of, heard and fully determined by any one of the justices of the peace living in or near the place where such offense shall be committed, who hath hereby power to cause the said penalty to be levied by distress and sale of the offender's goods and chattels, rendering the overplus, if any, to the owner.

[Section III.] And be it further enacted by the authority aforesaid, That every innkeeper keeping an inn or house of entertainment on any public road or roads within this province shall keep sufficient quantities of hay, oats, indian corn or rye

for the accommodation and use of the horses and creatures of such as are employed or engaged in His Majesty's service and shall demand, have and receive according to the following rates, That is to say, for every hundred weight of good hay, three shillings and six pence; for hay for each horse for one night, eight pence; for oats, per bushel, three shillings; for indian corn, per bushel, three shillings and six pence; for rye, per bushel, three shillings and six pence, and so in proportion for a smaller quantity of all or any of them.

And if any such innkeeper shall neglect to provide a sufficient quantity of hay, oats, indian corn or rye as aforesaid, or shall demand more or greater prices than this act directs, he, she or they so offending shall forfeit and pay the sum of forty shillings each for every such offense, to be recovered as debts under forty shillings are directed to be recovered, one-half to the prosecutor and the other half to the overseers of the poor for the use of the poor of the city, borough or township where the same shall be recovered.

And in case any carriages and horses shall be wanted for the transportation of provisions beyond the inhabited parts of this province, the same shall be procured in the same manner as the other carriages and horses are hereby directed to be procured, and the said owner or owners of every carriage and four horses, with a driver, that shall be so employed beyond the inhabited parts of this province, shall be paid by the officer demanding the same the sum of fifteen shillings per diem for every day he shall be so employed until he shall return to his habitation, and the driver and horses shall be maintained and supported at the And that the owner or owners of six charge of the Crown. horses, with pack saddles and a driver, shall have and receive twelve shillings per diem until he shall return to his place of abode and be maintained in like manner. And that every carriage and horse shall be valued and appraised by four indifferent persons, two whereof shall be chosen on the part of His Majesty and two on the part of the owners, before the same shall be taken into the said service, and in case any of the said carriages and horses should be lost, destroyed, killed, taken by the enemy or otherwise rendered useless to the owners, the said valuation shall

be paid to the respective owner or owners of such carriages and horses that shall be so lost, destroyed, killed, taken by the enemy or otherwise rendered useless by the commander in chief of His Majesty's forces in these parts.

This act to continue for the space of one year and from thence to the next sitting of assembly, and no longer.

Passed July 8, 1763. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Act of Assembly passed May 30, 1764, Chapter 514.

#### CHAPTER DI.

AN ACT FOR REGULATING THE OFFICERS AND SOLDIERS IN THE PAY OF THIS PROVINCE.

Whereas many barbarous hostilities have lately been perfidiously committed by the Indians on the western and northern frontiers of this province and there is great reason to apprehend that a confederacy has been formed among several tribes of the said Indians to continue and extend their incursions, and by the cruelest murders and devastations to spread destruction through this province.

And whereas it is judged necessary that a body of forces not exceeding the number of seven hundred men, exclusive of those already in the service of the government, should be taken into the pay of this province, to be divided, stationed and employed in protecting the frontier inhabitants within the purchased parts of the said province, during the time of harvest or until the next meeting of the general assembly.

And whereas no man can be forejudged of life or limb or subjected in time of peace to any kind of punishment within this province by martial law or in any other manner than by the judgment of his peers and according to the known and established laws of this province, yet, nevertheless, it being requisite for the retaining such forces in their duty that an exact disci-

pline be observed and that offenders be brought to a more exemplary and speedy punishment than the usual forms of the law [will] allow:

[Section I.] Be it therefore enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the gaid Province in General Assembly met, and by the authority of the same, That from and after the publication of this act if any person who is or shall be hereafter, during the continuance of this act, [mustered or in the pay of this province as an officer, or who is or shall be hereafter during the continuance of this act] listed, voluntarily entered or in the pay of this province as a soldier, shall, at any time during such continuance of this act begin, excite, cause or join in any mutiny or sedition in the company, troop or regiment whereto he doth belong or in any other company, troop or regiment in His Majesty's service or shall not use his utmost endeavors to suppress the same, or coming to the knowledge of any mutiny [or intended mutiny] shall not without delay give information thereof to his commanding officer, or shall desert His Majesty's service or being a soldier actually listed in any regiment, troop or company [shall list himself in any other regiment, troop or company] without a discharge produced in writing from the colonel, or, in his absence, the field officer commanding in chief the regiment, troop or company in which he last served as a listed soldier; or shall be found sleeping upon his post or shall leave it before relieved; or if any officer or soldier of the said forces shall hold correspondence with any of the said Indians who have been concerned in the hostilities lately committed or that shall hereafter [be] committ[ed] within this province or with any person who has assisted or shall hereafter assist the said Indians in committing such hostilities or give them advice or intelligence, either by letters, messages, signs or tokens in any manner or way whatsoever, or shall treat with such Indians or persons or enter into any condition with them without His Majesty's license or license of the general, lieutenant-general or chief commander; or shall strike or use any violence against his superior officer [being in the execution of his office, or shall disobey any lawful command of his superior officer, all] and every person and persons so offending in any of the matters before mentioned shall suffer death or such other punishment as by a court-martial shall be inflicted.

[Section II.] And be it further enacted by the authority aforesaid, That the governor or commander in chief of this province for the time being may from time to time grant a commission under the great seal to any officers not under the degree of a field officer for the holding a general court-martial within this province, in which courts-martial all the offenses in this act specified shall be tried and proceeded against in such manner as by this act shall be hereafter directed.

[Section III.] And be it also further enacted, That it shall and may be lawful to and for such courts-martial, by their sentence or judgment, to inflict corporal punishment not extending to life or limb on any soldier for immoralities, misbehavior or neglect of duty.

[Section IV.] And it is hereby further enacted and declared, That no general court-martial which shall have power to sit by virtue of this act shall consist of a less number than thirteen, whereof none to be under the degree of a commission officer; and the president of such general court-martial shall neither be the commander in chief or governor of the garrison where the offender shall be tried nor under the degree of a field officer unless where a field officer cannot be had, in which case the officer next in seniority to the commander, not being under the degree of a captain, shall preside at such court-martial, and that such court-martial shall have power and authority and are hereby required to administer an oath to every witness in order to the examination or trial of any of the offenses that shall come before them.

Provided always, That in all trials of offenders by general courts-martial to be held by virtue of this act every officer present at such trial, before any proceedings be had thereupon, shall take the following oaths upon the holy evangelists before the court and judge advocate or the person officiating as such (who are hereby authorized to administer the same) in these words, That is to say:

"You shall well and truly try and determine, according to your evidence in the matter now before [you], between our Sovereign Lord the King's Majesty and the prisoner to be tried. So help you God."

"I, A.B., do swear that I will duly administer justice according to an act of [the general assembly of] this province now in force, entitled 'An act for regulating the officers and soldiers in the pay of this province,' without partiality, favor or affection; and if any doubt shall arise which is not explained by the said act, according to my conscience, the best of my understanding and the custom of war in the like cases. And I further swear that I will not divulge the sentence of the court until it shall be approved by His Majesty, the general or commander in chief of this province; neither will I upon any account at any time whatsoever disclose or discover the vote or opinion of any particular member of the court-martial unless required to give evidence thereof as a witness by a court of justice in a due course of law. So help me God."

And so soon as the said oaths shall have been administered to the respective members, the president of the court is hereby required and authorized to administer to the judge advocate or the person officiating as such an oath in the following words:

"I, A. B., do swear that I will not upon any account at any time whatsoever disclose or discover the vote or opinion of any particular member of the court-martial unless required to give [evidence] thereof, as a witness by a court of justice in a due course of law. So help me God."

[And no sentence of death shall be given against any offender in such case by any general court-martial unless nine officers present shall concur therein; and if there be more officers present than thirteen, then the judgment shall pass by the concurrence of two-thirds of the officers present; and no proceeding or trial shall be had upon any offense but between the hours of eight of the clock in the morning and three in the afternoon, except in cases which require an immediate example.]

Provided always, That the party tried by any such courtmartial shall be entitled to a copy of the sentence and proceedings of the said court upon demand thereof made by himself or any other person or persons in his behalf (he or they paying reasonably for the same) at any time not sooner than three months after such sentence. Provided also, That every person presiding at any trial where-upon sentence of death shall be given against any officer or soldier by virtue of this act shall transmit, as soon as conveniently may be, to the governor or commander in chief of this province for the time being a fair transcript of the proceedings and sentence of such court-martial, under the hands and seals of the officers who composed the said court; and that the execution of the sentence so given shall be suspended until the pleasure of the governor or commander in chief of this province for the time being be known and his warrant for the same under the great seal shall be received.

[Section V.] Provided always and be it hereby declared and enacted, That no officer or soldier being acquitted or convicted of any offense be liable to be tried a second time by the same or any other court-martial for the same offense unless in the case of an appeal from a regimental to a general court-martial, and that no sentence given by any court-martial and signed by the president thereof be liable to be revised more than once.

Provided always, That nothing in this act contained shall extend or be construed to exempt any officer or soldier whatsoever from being proceeded against by the ordinary course of law.

[Section VI.] And be it further enacted by the authority aforesaid, That this act shall be and continue in force until the twentieth day of September next, and no longer.

Passed July 8, 1763. Never submitted to the consideration of the Crown. See Appendix XXIV, Section II, and the Act of Assembly passed October 22, 1763, Chapter 507.

#### CHAPTER DII.

AN ACT FOR THE ERECTING A LIGHT-HOUSE AT THE MOUTH OF THE BAY OF DELAWARE, AT OR NEAR CAPE HENLOPEN, FOR PLACING AND FIXING BUOYS IN THE SAID BAY AND RIVER DELAWARE, AND FOR APPOINTING COMMISSIONERS TO RECEIVE, COLLECT AND RECOVER CERTAIN SUMS OF MONEY HERETOFORE RAISED BY WAY OF LOTTERY AND TO APPROPRIATE THE SAME TO THE PURPOSES AFORESAID.

Whereas a considerable sum of money has been heretofore raised on the inhabitants of this province and others by a lottery to defray the expense of building a light-house on or near Cape Henlopen, at the mouth of the bay of Delaware, and of placing buoys in the said bay and river Delaware in such places as shall be thought convenient and necessary to assist and make easy the navigation of the said river and bay.

And whereas the managers of the said lottery have represented to the assembly of this province that the said sum of money remains in their hands not yet laid out or disposed of, and that other sums are yet outstanding and remain due to them for tickets sold and not paid for, and have signified their desire that the said sums of money should be appropriated and disposed of by such commissioners as should be appointed by act of general assembly for and towards the purposes aforesaid in pursuance of the original scheme and design of the said lottery: Now, to the end and intent that the said sums of money so outstanding may be recovered and collected and the same, together with the sums of money now remaining in the hands of the managers of the said lottery, may be duly applied to the original design of the adventure[r]s in the said lottery so beneficial to the trade of this province:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice

# 1762-63] The Statutes at Large of Pennsylvania.

and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That Peter Reeve, William Richards, Luke Morris, William Morrell, John Kidd, Joseph Stamper, John Gibson shall be and they are hereby nominated and appointed commissioners for building and erecting a light-house at the mouth of the bay of Delaware at or near Cape Henlopen, in the county of Sussex on Delaware, and for placing and fixing buoys in the river and bay of Delaware; and the said commissioners, or a majority of them, by and with the approbation of the governor or commander in chief of this province for the time being, are hereby authorized, enjoined and required, with all convenient speed, to purchase so much land as they shall think necessary for the building and erecting a light-house and for the convenient accommodation [of the same] at the mouth of the bay aforesaid, at or near Cape Henlopen, and on the same land to build and erect a convenient light-house and to place and fix such and so many buoys in such parts and places of the said river and bay as they shall think necessary for the pointing out and discovering the channel thereof and to agree on, do, execute and perform all and every other act, matter and thing relative to the premises which to them shall appear necessary for the making safe and assisting the navigation of the said river and bay.

[Section II.] And be it further enacted by the authority aforesaid, That the said commissioners, or a majority of them, shall and they are hereby authorized, enjoined and required to ask for, demand, receive and collect all and every sum and sums of money which are or ought to be in the hands of the managers of the said light-house lottery from the said managers and also to ask for, demand and receive all and every such other sums of money which now are due and payable to the said managers by any person or persons, bodies politic or corporate whatsoever for tickets sold and unpaid for in as full and ample a manner as if the said sums of money had become due to them in their own right, and for the said moneys when so received to give one or more sufficient receipts or discharges, which receipts or discharges shall be and are hereby declared fully and sufficiently to exonerate, acquit and discharge every such person and persons,

bodies politic and corporate, who shall pay any such moneys to the said commissioners of and from the appropriation and disposition thereof and of and from all manner of trust and duty arising from or respecting such money to all intents and purposes whatsoever; and that the said sums of money so received by the said commissioners shall, with all convenient speed, be applied, appropriated and disposed of for and towards the purchasing the said land, building and erecting the said light-house and placing and fixing the buoys aforesaid in the said river and bay.

[Section III.] And be it further enacted by the authority aforesaid, That if, after demand made as aforesaid, any person or persons, bodies politic or corporate whatsoever in whose hands such moneys shall be shall neglect or refuse to pay the same to the said commissioners, that then it shall and may be lawful to and for them, the said commissioners, or a majority of them, and they are hereby enjoined and required, in their own names, to sue for and recover the said moneys by action on the case or action of debt, as the case may require, to be brought for the same, if above five pounds, in any county court of common pleas within this province, if five pounds or under, before any justice of the peace, and upon trial to give this act and the books of the said managers, or any other legal proof, in evidence in support of such action, and if it shall appear to the court and jury or to the justice of the peace aforesaid that the sum demanded or any part thereof is justly due, then the said court or justice respectively shall give judgment against the defendant for so much as shall appear to be due, with costs of suit, and shall award execution for the same as is usually done in such like action before them respectively triable by the laws of this province, and if no part thereof shall appear to be due as aforesaid, that then the said court or justice respectively shall give judgment for the costs against the plaintiff, which costs shall be paid out of the moneys recovered or collected by virtue of this act.

[Section IV.] And be it further enacted by the authority aforesaid, That the said commissioners, or a major part of them, or of the survivors or survivor of them, shall from time to time make report of their proceedings in the premises to the assembly

of this province and shall also account with the committees of assembly annually appointed to settle the public accounts, to be by the said committees laid before the assembly for their approbation.

[Section V.] And be it further enacted by the authority aforesaid, That if any person or persons whatsoever shall designedly take up, remove or destroy any such buoy or buoys so placed by the said commissioners in the bay or river Delaware from the place or places where the same shall be placed and fixed as aforesaid without the consent, order and direction of the governor or commander in chief of this province for the time being, every such person being thereof legally convicted in any county court of quarter sessions in this province shall forfeit and pay the sum of five hundred pounds, one-half thereof to him or them that will sue and prosecute for the same, and the other half to the governor of this province for the support of government, and, moreover, be committed to the common gaol of such county there to remain during the space of twelve months, without bail or mainprise.

Passed September 30, 1763. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the Acts of Assembly passed September 22, 1764, Chapter 556; (the two acts of) February 8, 1766, Chapters 536, 540; May 20, 1767, Chapter 561; May 27, 1769, Chapter 597; May 16, 1770, Chapter 613; March 9, 1771, Chapter 632; October 19, 1771, Chapter 640; February 26, 1773, Chapter 671; October 4, 1788, Chapter 1365; September 28, 1789, Chapter 1453.

#### CHAPTER DIII.

AN ACT TO ENABLE THE COMMISSIONERS FOR PAVING THE STREETS OF THE CITY OF PHILADELPHIA, TO SETTLE THE ACCOUNTS OF THE MANAGERS AND TO SUE FOR AND RECOVER FROM SEVERAL PERSONS SUCH SUMS OF MONEY AS ARE NOW DUE AND UNPAID ON ACCOUNT OF THE SEVERAL LOTTERIES SET UP AND DRAWN FOR PAVING THE STREETS OF THE SAID CITY.

Whereas the commissioners nominated and appointed in and by an act of general assembly, entitled "An act for regulating, 20—VI

pitching, paving and cleansing the highways, streets, lanes and alleys, and for regulating, making and amending the watercourses and common sewers within the inhabited and settled parts of the city of Philadelphia," &c.,1 or a majority of them, were, at the request of the managers of the lottery for paving the streets of the said city authorized and empowered to take and receive of and from the managers of any lottery or device whatsoever theretofore instituted to raise money for paving the streets of the said city or any of them, and of and from all and every other person and persons, bodies politic or corporate, all sums of money which should be offered or tendered to them, and to give receipts and discharges for the same, which were thereby declared fully and sufficiently to exonerate and discharge such person or persons, bodies politic or corporate who should pay such moneys to the said commissioners of and from the appropriation and disposition thereof and of and from all manner of trust or duty arising from or respecting such money to all intents and purposes whatsoever.

And whereas most of the managers of the lottery for paving the streets of the said city have, in pursuance of the act aforesaid, accounted with and paid into the hands of the said commissioners for paving the streets aforesaid all the moneys by them received on account of the said lottery, but some others, managers of the said lottery, have hitherto neglected and refused to pay into the hands of the said commissioners for paving the streets aforesaid the several sums by them received for and on account of the said lottery.

And whereas also one other lottery [was] heretofore set up and drawn for raising a sum of money for the paving the north end of the Second street of the said city, in pursuance whereof great sums of money have been expended and laid out by the managers of the said lottery in paving the said north end of the Second street; but no account hath hitherto been rendered nor any person or persons duly authorized to demand and require such account of the said managers or to receive any balances that may yet remain in their or any of their hands on account of the said lottery.

<sup>1</sup> Passed March 26, 1762, Chapter 480.

And whereas several debts are still due to the managers of the the said lotteries for tickets sold by them:

[Section I.] Therefore be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all and every the manager and managers aforesaid concerned in either of the lotteries aforesaid who have not already accounted with and paid into the hands of the said commissioners the sums from them respectively due shall and they are hereby enjoined and required, upon request for that purpose to them, or any or either of them, made by the said commissioners, to render fair and just accounts of the moneys by them, or any of them, received, with the debts to them, or any of them, due and owing for or on account of tickets sold, and the [names of the person or persons who stand indebted | to the said managers or any of them, for tickets sold as aforesaid; and upon settlement of such account with the said commissioners or their successors, commissioners for the time being, the 'said managers and every of them in either of the lotteries aforesaid upon any sum of money being found in their hands or from them, or either of them due or from any other person or persons to them or either of them indebted for tickets purchased as aforesaid, shall and they are hereby enjoined and required forthwith to pay to the said commissioners for the time being the sums from them respectively due; and in default of payment it shall and may be lawful to and for the said commissioners, or a majority of them, for the time being, and they are hereby enjoined and required. in their own names, to sue for and recover all such sums of money by action of debt, action on the case or otherwise as may be proper, if above five pounds in any county court of common pleas within this province, if five pounds or under before any justice of the peace, and upon trial to give this act and the books of the said managers or other legal proof in evi-And if it shall appear to the court and jury or to the dence.

justice of the peace aforesaid on any trial [by virtue] of this act before them respectively had, that the sum demanded or any part thereof is justly due, then the said court or justice respectively shall give judgment against the defendant for so much as shall appear to be due, with costs of suit, and shall award execution for the same as is usually done in such like actions before them respectively triable and determinable by the laws of this province; but if no part of the sum demanded shall appear to be due as aforesaid, then the said court or justice respectively shall give judgment for the costs against the plaintiffs, which costs shall be paid out of the moneys recovered or collected by virtue of this act.

[Section II.] And be it further enacted by the authority afore-said, That the said commissioners for the time being, or a majority of them, may and they are hereby authorized and empowered, if there shall be any danger of losing any part of the money hereby directed to be recovered by the insolvency of the debtors or any of them, to compound with any person for the said debts and to receive a smaller sum or sums in satisfaction of the whole and to give discharges or releases for the same in such manner as to them shall seem most proper for securing the payment of the said debts or any part thereof.

[Section III.] And be it further enacted by the authority aforesaid, That [the said comm]issioners for the time being, or a majority of them, shall account in the same manner for any sums of money received or collected by virtue of this act as they are directed to account by the act hereinbefore recited for moneys received or collected by virtue thereof.

Passed September 30, 1763. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed March 26, 1762, Chapter 480.

#### CHAPTER DIV.

AN ACT TO CONTINUE AN ACT, ENTITLED "AN ACT FOR REGULATING AND CONTINUING THE NIGHTLY WATCH AND ENLIGHTENING THE STREETS, LANES AND ALLEYS OF THE CITY OF PHILADELPHIA, AND FOR RAISING MONEY ON THE INHABITANTS AND ESTATES OF THE SAID CITY FOR DEFRAYING THE NECESSARY EXPENSE THEREOF." 1

Whereas the act of assembly of this province passed in the twenty-ninth year of His late Majesty's reign, entitled "An act for regulating and continuing the nightly watch and enlightening the streets, lanes and alleys of the city of Philadelphia, and for raising money on the inhabitants and estates of the said city for defraying the necessary expense thereof," hath, upon experience, proved greatly conducive to the ease and security of the persons and estates of the inhabitants of the said city, and is now near expiring by the term of its own limitation:

[Section I.] Therefore be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said act and every article, clause and thing therein contained shall be and is hereby declared to be and continue in full force and virtue for and during the term of six years from the publication hereof and from thence to the end of the next session of assembly and no longer.

[Section II.] And be it further enacted by the authority aforesaid, That the act, entitled "A supplement to the act, entitled 'An act for regulating and continuing the nightly watch and enlightening the streets, lanes and alleys of the city of Philadelphia, and for raising money on the inhabitants and estates of

<sup>&</sup>lt;sup>1</sup> Passed September 15, 1756, Chapter 411.

the said city for defraying the necessary expense thereof," 1 passed in the thirtieth year of the late reign, shall be and is hereby declared to be repealed and made null and void.

Passed September 30, 1763. Referred for consideration by the King in Council February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed September 15, 1756, Chapter 411.

<sup>1</sup> Passed January 18, 1759, Chapter 418.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1763, and continued by adjournments until the twenty-second day of September, 1764, the following acts were passed:

## CHAPTER DV.

AN ACT FOR GRANTING TO HIS MAJESTY THE SUM OF TWENTY-FOUR THOUSAND POUNDS FOR THE DEFENSE AND PROTECTION OF THIS PROVINCE AND FOR OTHER PURPOSES THEREIN MENTIONED.

Whereas many barbarous invasions have been made upon several of His Majesty's colonies in America and on the frontiers of this province in particular by divers parties of the northern and western Indians, whereby a great number of the inhabitants have been driven from their habitations, many perfidiously murdered and the most cruel devastations committed in manifest violation of the most solemn treaties of peace lately concluded on between our most gracious Sovereign and the said Indians.

And whereas circumstances so affecting and distressing to the said frontier inhabitants demand immediate aid and protection, therefore we, the representatives of the freemen of the province of Pennsylvania, desirous of demonstrating our duty to our most gracious Sovereign and to afford all the assistance and effectual protection in our power to the distressed frontier inhabitants do pray that it may be enacted:

[Section I.] And be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the

said Province in General Assembly met, and by the authority of the same, That the sum of twenty-four thousand pounds lawful money of this province is and is hereby declared to be given and granted to His Majesty to and for the particular purposes herein[after] mentioned and appointed.

And whereas in and by an act of general assembly of this province passed in the first year of His present Majesty's reign, entitled "An act for appointing certain persons hereinafter named to apply for and receive the distributive shares and proportions which are or shall be allotted to this province out of the sum or sums of money granted or to be granted by Parliament to His Majesty's colonies in America," the trustees of the general loan office did draw certain bills of exchange on the agents appointed in and by the same act to apply for and receive the distributive shares and proportions allotted to this province out of the sums of money granted by Parliament to His Majesty's colonies in America, and the same bills so drawn did sell and dispose of to such persons as would purchase the same for bills of credit of this province.

And whereas the said trustees by the said recited act of assembly were authorized and enjoined to appropriate and apply part of the money that should arise from the sale of the bills of exchange aforesaid to the particular uses, intents and purposes therein mentioned and specified, and the remaining part thereof to pay and deliver into the hands of the committees of assembly, to be by them burnt, sunk and destroyed in abatement of the public taxes and towards sinking the sums of money theretofore granted to His Majesty's use.

And whereas in and by virtue of an act of general assembly passed in the second year of His present Majesty's reign, entitled "An act for granting to His Majesty the sum of twenty-three thousand [five] hundred pounds for the purposes therein mentioned," the sum of twenty-three thousand five hundred pounds was given and granted to His Majesty's use, and the said trustees of the general loan office were thereby enjoined and required out of the moneys so ordered to be burnt, sunk and destroyed in

<sup>1</sup> Passed September 26, 1761, Chapter 470.

<sup>&</sup>lt;sup>2</sup> Passed May 14, 1762, Chapter 483.

lately concluded with the Indians inhabiting the northern and western frontiers of this province," <sup>1</sup> the said trustees of the general loan office were enjoined and required to pay into the hands of the commissioners for Indian affairs the sum of fourteen thousand pounds out of the money arising by the Parliamentary grants, being part of the money so ordered to be sunk in abatement of the public taxes for the uses, intents and purposes in the said act specified.

And whereas the said trustees in pursuance of the directions of the said several hereinbefore recited acts of assembly have applied and appropriated part of the said moneys so arising from the sale of the said bills of exchange to the use, intents and purposes therein mentioned and appointed, and there still remains in their hands more than sufficient to answer the purposes aforesaid the sum of twelve thousand pounds, or thereabouts.

And whereas in and by virtue of another act of general assembly of this province passed in the [first] year of His said present Majesty's reign, entitled "An act for laying a duty on negroes and mulatto slaves imported into this province," all the duties arising by virtue of the same act are therein directed to be paid to the uses and purposes of an act passed in the twelfth year of the reign of King George the First, entitled "An act for the better regulating of negroes in this province," so far as it relates to the payment of the owners of negroes convicted of capital crimes and executed in this province and the overplus, if any, to be paid into the hands of the provincial treasurer to be applied towards sinking the sums of money before that time granted to the King's use.

And whereas there now remains in the hands of the provincial treasurer over and above what has been paid to the owners and masters of negroes convicted and executed as aforesaid and what has been sunk by the committees of assembly in abatement of the taxes aforesaid the sum of one thousand and thirty-three pounds six shillings and six pence.

And whereas it is convenient and necessary that the said several sums of money so as aforesaid remaining in the hands of

<sup>1</sup> Passed April 2, 1763, Chapter 499.

<sup>&</sup>lt;sup>2</sup> Passed March 14, 1761, Chapter 467.

<sup>2</sup> Passed March 5, 1725-26, Chapter 291.

the trustees of the general loan office aforesaid and provincial treasurer should be applied in this time of danger for and towards the protection and defense of this province and not be burnt and sunk in abatement of the sums of money heretofore granted to the King's use, wherefore:

[Section II.] Be it enacted by the authority aforesaid, That the said several sums of surplus moneys so as aforesaid arising out of and from the acts of general assembly respectively hereinbefore recited and now remaining in the several and respective hands of the trustees of the general loan office and provincial treasurer of this province shall be and are hereby declared to be given and granted to His Majesty and subject and liable to the drafts and orders of the commissioners hereinafter nominated and appointed, with the assent of the governor or commander in chief of this province for the time being, to dispose of the moneys hereby granted to His Majesty's use, anything in the said hereinbefore recited acts of assembly to the contrary thereof notwithstanding.

And whereas by virtue of an act of general assembly of this province passed in the present year of His Majesty's reign, entitled "An act for preventing abuses in the Indian trade and for securing and strengthening the peace and friendship lately concluded with the Indians inhabiting the northern and western frontiers of this province," the commissioners therein nominated and appointed did borrow and receive of and from the trustees of the general loan office the sum of fourteen thousand pounds for the carrying on and prosecuting a trade with the said northern and western Indians.

And whereas by the hostilities and depredations lately committed by the said Indians on the inhabitants of this province all further trade and commerce with them is rendered useless and impracticable and the good purposes of the said act totally frustrated:

[Section III.] Be it therefore enacted by the authority aforesaid, That the commissioners for Indian affairs nominated and appointed in and by virtue of the said last recited act shall and they are hereby enjoined and required, with all convenient

<sup>1</sup> Passed April 2, 1763, Chapter 499.

speed, and at furthest within the space of eighteen months next after the publication of this act, to sell, dispose of and convert into money all and every part and parcel of the goods, wares and merchandises in their hand, custody or power by them purchased with the moneys so borrowed or otherwise howsoever in their possession as commissioners for Indian affairs afore-And that the said commissioners shall, with all convenient speed and at furthest within the space of eighteen months from the publication of this act pay into the hands of the said provincial treasurer all such moneys as shall arise from the sale of the said goods, wares and merchandises, together with all such other moneys as shall be in their hands belonging to the said Indian trade by any ways or means whatsoever upon a full and final settlement of their accounts, which they, the said commissioners for Indian affairs, are hereby required to render and settle with the committee of assembly annually appointed for the adjustment of the public accounts; and that so much of the same money so paid into the hands of the provincial treasurer as shall make up the several sums or surplus money and the said seven thousand pounds, in the whole the sum of twenty-four thousand pounds, shall be and is hereby declared to be given and granted to His Majesty and shall be and remain in the hands of the said provincial treasurer, subject to the drafts and orders of the commissioners hereby nominated to dispose of the money hereby granted to His Majesty's use, with the approbation of the governor or commander in chief of this province for the time being, anything in the said last recited act of assembly to the contrary thereof notwithstanding; and that the residue thereof shall remain in the hands of the said treasurer, to be disposed of by act of general assembly.

[Section IV.] And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the commissioners hereinafter nominated and appointed with the assent and approbation of the governor or commander in chief of this province for the time being, to apply and appropriate a certain sum of seven thousand pounds now remaining in the hands of the said trustees of the general loan office to and for the uses, intents and purposes hereinafter mentioned, the said

seven thousand pounds being part of fifteen thousand pounds granted to His Majesty for the protection and defense of the city of Philadelphia in and by the said recited act of assembly, entitled "An act for granting to His Majesty the sum of twenty-three thousand five hundred pounds for the purposes therein mentioned," anything in the same recited act to the contrary thereof notwithstanding.

And in order to assure and secure to the commissioners nominated in the said last-recited act, with the assent of the governor or commander in chief of this province for the time being, the disposition and application of the like sum of seven thousand pounds to and for the protection and defense of the said city of Philadelphia (to and for which purpose the same by law was given and granted to His Majesty), when it shall become expedient and necessary:

[Section V.] Be it enacted by the authority aforesaid, That so much of the act of general assembly of this province passed in the thirtieth year of His late Majesty, King George the Second, entitled "An act for striking the sum of thirty thousand pounds in bills of credit and giving the same to the King's use and for providing a fund to sink the bills so to be emitted by laying an excise upon wine, rum, brandy and other spirits," as relates to the raising, levying, collecting and paying the excise upon wine, rum, brandy and other spirits and all other the duties, fines and penalties, matters and things relative to the said excise directed and enjoined in and by virtue of the said act be and are hereby continued and extended from the time limited in and by the same act for and during the term of three years and from thence to the end of the next session of assembly and no longer.

[Section VI.] And be it further enacted by the authority aforesaid, That the sum of seven thousand pounds, part of the moneys which shall arise and be paid into the hands of the provincial treasurer in and by virtue of the continuance and extension of the said last recited act of assembly shall be and is hereby declared to be subject and liable to the drafts and orders of the same persons, and shall be applied to [and for the

<sup>&</sup>lt;sup>1</sup> Passed May 14, 1762, Chapter 483.

<sup>&</sup>lt;sup>2</sup> Passed September 12, 1756, Chapter 412,

building and erecting such fortifications as may be necessary for the protection and defense of the said city of Philadelphia, as] mentioned and specified in the said recited act for granting to "His Majesty the sum of twenty-three thousand five hundred pounds for the purposes therein mentioned," as fully to all intents and purposes as if this act and every article, clause and thing therein contained had never been enacted or passed into a law.

[Section VII.] And be it further enacted by the authority aforesaid, That Lynford Lardner, Thomas Cadwalader, Benjamin Franklin, Joseph Fox, John Hughes, Joseph Galloway and John Baynton, Esquires, or the major part of them or of the survivors of them, with the consent and approbation of the governor or commander in chief of this province for the time being and not otherwise, shall order, [direct] and appoint the disposition of the moneys arising by virtue of this act and given and granted to His Majesty for and towards discharging the arrears due for raising and victualing the troops lately taken into the service of this province, and for and towards raising, paying and victualing eight hundred [and twenty-five] men to be employed in the most effectual manner for the defense and protection of this province, till the first day of February next, and for and towards paying and discharging all such certificates as have been heretofore drawn by order of assembly for the incidental charges of this government not heretofore provided for. [that] the said Lynford Lardner, Thomas Cadwalader, Benjamin Franklin, Joseph Fox, John Hughes, Joseph Galloway and John Baynton, or a majority of them or of the survivors of them, shall and they are hereby empowered and required, as often as there shall be occasion for money for the purposes aforesaid, to draw orders on the said trustees of the general loan office and provincial treasurer aforesaid, or either of them, for the moneys hereinbefore made subject to their orders or drafts, which orders or drafts so drawn and paid by the said trustees or provincial treasurer shall be produced to the committees of assembly for the time being and by them allowed in discharge of so much of the money granted to His Majesty by virtue of this

<sup>1</sup> Passed May 14, 1762, Chapter 483.

act; and the said orders so as aforesaid paid shall be sufficient to discharge the said trustees and provincial treasurer, their executors and administrators respectively, of and from so much as shall be respectively paid by them and specified in the said orders. And the commissioners last mentioned for their trouble in discharging the duties required of them by this act shall have and receive one per centum on the whole sum of the orders by them drawn and no more.

And the said trustees and treasurer shall have and receive for their trouble respectively in performing the duties enjoined and required of them by this act, the sum of ten shillings each for every hundred pounds and no more.

Passed October 22, 1763. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed March 5, 1725-26, Chapter 289; and the Acts of Assembly passed May 30, 1764, Chapter 513; September 22, 1764, Chapter 516.

As to Section V, see the Act of Assembly passed May 20, 1767, Chapter 559.

#### CHAPTER DVI.

AN ACT TO PROHIBIT THE SELLING OF GUNS, GUNPOWDER OR OTHER WARLIKE STORES TO THE INDIANS.

Whereas several tribes of Indians for some time past have perfidiously made incursions within the frontiers of this province and have perpetrated many cruel and barbarous murders on the inhabitants thereof, and it must be in the present circumstance of affairs of dangerous consequence to supply the said Indians with guns, gunpowder or other warlike stores.

For prevention whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice

and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same. That from and after the passing of this act if any person or persons whatsoever shall directly or indirectly give to, sell, barter or exchange with any Indian or Indians whatsoever any guns, gunpowder, shot, bullets, lead or other warlike stores without license from the commander in chief of the King's forces in those parts or from the governor or commander in chief of this province for the time being first had and obtained, every such person or persons so offending, being thereof legally convicted in any county court of quarter sessions within this province, shall forfeit and pay the sum of five hundred pounds, one moiety thereof to the informer and the other moiety to the governor or commander in chief of this province for the time being, and shall furthermore be whipped with thirty-nine lashes on his bare back, well laid on, and be committed to the common gaol of the county, there to remain twelve months without bail or mainprise.

[Section II.] And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of twelve months and from thence to the end of the next session of assembly, and no longer.

Passed October 22, 1763. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII. Expired.

#### CHAPTER DVII.

AN ACT FOR REGULATING THE OFFICERS AND SOLDIERS IN THE PAY
OF THIS PROVINCE.

Whereas many barbarous hostilities have lately been perfidiously committed by the Indians on the western and northern frontiers of this province and there is great reason to apprehend that a confederacy has been formed among several tribes of the said Indians to continue and extend their incursions, and by the cruelest murders and devastations to spread destruction through this province.

And whereas it is judged necessary that a body of forces not exceeding eight hundred [and twenty-five] men should be continued in the pay of this government, to be employed in the most effectual manner for the defense of this province until the first day of February next ensuing.

And whereas no man can be forejudged of life or limb, or subjected, in time of peace, to any kind of punishment within this province by martial law or in any other manner than by the judgment of his peers and according to the known and established laws of this province; yet, nevertheless, it being requisite for the retaining such forces in their duty that an exact discipline be observed and that offenders be brought to a more exemplary and speedy punishment than the usual forms of the law will allow:

[Section I.] Be it therefore enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act, if any person who is or shall be hereafter during the continuance of this act mustered or in the pay of this province as an officer or who is or shall be hereafter during the continuance of this act listed, voluntarily entered or in the pay of this province as a soldier shall, at any time during such continuance of this act, begin, excite, cause or join in any mutiny or sedition in the company, troop or regiment whereto he doth belong or in any other company, troop or regiment in His Majesty's service, or shall not [use his] utmost endeavors to suppress the same, or coming to the knowledge of any mutiny or intended mutiny shall not, without delay, give information thereof to his commanding officer, or shall desert His Majesty's service, or being a soldier actually listed in any regiment, troop or company, shall list himself in any other regiment, troop or company without a dis-

charge produced in writing from the colonel, or, in his absence, the field officer commanding in chief the regiment, troop or company in which he last served as a listed soldier; or shall be found sleeping upon his post or shall leave it before relieved, or if any officer or soldier of the said forces shall hold correspondence with any of the said Indians who have been concerned in the hostilities lately committed or that shall hereafter be committed within this province or with any person who has assisted or shall hereafter assist the said Indians in committing such hostilities, or give them advice or intelligence, either by letters, messages, signs or tokens in any manner or way whatsoever, or shall treat with such Indians or persons or enter into any condition with them without His Majesty's license or license of the . general, lieutenant general or chief commander or shall strike or use any violence against his superior officer, being in the execution of his office; or shall disobey any lawful command of his superior officer, all and every person and persons so offending in any of the matters before mentioned shall suffer death or such other punishment as by a court-martial shall be inflicted.

[Section II.] And be it further enacted by the authority afore-said, That the governor or commander in chief of this province for the time being may from time to time grant a commission, under the great seal, to any officers not under the degree of a field officer for the holding a general court-martial within this province, in which courts-martial all the offenses in this act specified shall be tried and proceeded against in such manner as by this act shall be hereafter directed.

[Section III.] And be it also further enacted, That it shall and may be lawful to and for such courts-martial, by their sentence or judgment, to inflict corporal punishment not extending to life or limb on any soldier for immoralities, misbehavior or neglect of duty.

[Section IV.] And it is hereby further enacted and declared, That no general court-martial which shall have power to sit by virtue of this act shall consist of a less number than thirteen, whereof none to be under the degree of a commission officer; and the president of such general court-martial shall neither be the commander in chief or governor of the garrison where the

offender shall be tried nor under the degree of a field officer, unless where a field officer cannot be had, in which case the officer next in seniority to the commander, not being under the degree of a captain, shall preside at such court-martial; and that such court-martial shall have power and authority and are hereby required to administer an oath to every witness in order to the examination or trial of any of the offenses that shall come before them.

Provided always, That in all trials of offenders by general courts-martial to be held by virtue of this act, every officer present at such trial, before any proceedings be had thereupon, shall take the following oaths upon the Holy Evangelists before the court and judge advocate or the person officiating as such (who are hereby authorized to administer the same) in these words, That is to say:

"You shall well and truly try and determine, according to your evidence in the matter now before you, between our Sovereign Lord the King's Majesty and the prisoner to be tried. So help you God."

"I, A.B., do swear that I will duly administer justice according to an act of general assembly of this province now in force, entitled 'An act for regulating the officers and soldiers in the pay of this province,' without partiality, favor or affection; and if any doubt shall arise which is not explained by the said act, according to my conscience, the best of my understanding and the custom of war in the like cases. And I further swear that I will not divulge the sentence of the court until it shall be approved by His Majesty, the general or commander in chief of this province; neither will I, upon any account at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial unless required to give evidence thereof as a witness by a court of justice in a due course of law. So help me God."

And so soon as the said oaths shall have been administered to the respective members, the president of the court is hereby required and authorized to administer to the judge advocate or the person officiating as such an oath in the following words:

"I, A. B., do swear that I will not upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial unless required to give evidence thereof as a witness by a court of justice in a due course of law. So help me God."

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And no sentence of death shall be given against any offender in such case by any general court-martial unless nine officers present shall concur therein; and if there be more officers present than thirteen, then the judgment shall pass by the concurrence of two-thirds of the officers present. And no proceeding or trial shall be had upon any offense but between the hours of eight of the clock in the morning and three in the afternoon, except in cases which require an immediate example.

Provided always, That the party tried by any such court-martial shall be entitled to a copy of the sentence and proceedings of the said court, upon demand thereof made by himself or any other person or persons in his behalf (he or they paying reasonably for the same) at any time not sooner than three months after such sentence.

Provided also, That every person presiding at any trial where-upon sentence of death shall be given against any officer or soldier by virtue of this act shall transmit as soon as conveniently may be to the governor or commander in chief of this province for the time being a fair transcript of the proceedings and sentence of such court-martial, under the hands and seals of the officers who composed the said court, and that the execution of the sentence so given shall be suspended until the pleasure of the governor or commander in chief of this province for the time being be known and his warrant for the same under the great seal shall be received.

[Section V.] Provided always, and be it further declared and enacted, That no officer or soldier being acquitted or convicted of any offense be liable to be tried a second time by the same or any other court-martial for the same offense unless in the case of an appeal from a regimental to a general court-martial; and that no sentence given by any court-martial and signed by the president thereof be liable to be revised more than once.

Provided always, That nothing in this act contained shall extend or be construed to exempt any officer or soldier whatso-ever from being proceeded against by the ordinary course of law.

[Section VII.] And be it further enacted by the authority

aforesaid, That this act shall be and continue in force until the first day of February next, and no longer.

Passed October 22, 1763. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the Act of Assembly passed May 30, 1764, Chapter 514. Expired.

### CHAPTER DVIII.

AN ACT FOR PREVENTING TUMULTS AND RIOTOUS ASSEMBLIES AND FOR THE MORE SPEEDY AND EFFECTUAL PUNISHING THE RIOTERS.

Whereas of late several dangerous riots and tumults have been in divers parts of this province, to the disturbance of the public peace and the great terror of His Majesty's subjects, and the same are yet continued and fomented by many turbulent and evil-minded persons.

Therefore, for the preventing and suppressing of such riots and tumults and for the more speedy and effectual punishing the offenders therein:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any persons to the number of twelve or more being unlawfully, riotously and tumultuously assembled together to the disturbance of the public peace at any time after the publication of this act, and being required or commanded by any one or more justice or justices of the peace or by the sheriff of the county or his under-sheriff, or by the mayor, bailiff or bailiffs or other head officer or justice of the peace of any city or town corporate where such assembly shall be, by proclamation to be made in the King's name in the form hereinafter directed to

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disperse themselves and peaceably to depart to their habitations or to their lawful business, shall, to the number of twelve or more (notwithstanding such proclamation made) unlawfully, riotously and tumultuously remain or continue together by the space of one hour after such command or request made by proclamation, that then such continuing together to the number of twelve or more after such command or request made by proclamation shall be adjudged felony without benefit of clergy, and the offenders therein shall be adjudged felons and shall suffer death as in case of felony without benefit of clergy.

[Section II.] And be it further enacted by the authority aforesaid, That the order and form of the proclamations that shall be made by the authority of this act shall be as hereafter followeth, That is to say, the justice of the peace or other person authorized by this act to make the said proclamation shall, among the said rioters, or as near to them as he can safely come, with a loud voice command or cause to be commanded silence to be while proclamation is making, and after that shall openly and with loud voice make or cause to be made proclamation in these words or [like] in effect:

"Our Sovereign Lord, the King, chargeth and commandeth all persons being assembled immediately to disperse themselves and peaceably to depart to their habitations or to their lawful business upon the pains contained in the act of the general assembly of this province made in the fourth year of George the Third for preventing tumults and riotous assemblies.

"God Save the King."

And every such justice and justices of the peace, sheriff, undersheriff, mayor, bailiff and other head officer aforesaid within the limits of their respective jurisdictions are hereby authorized, empowered and required, on notice or knowledge of any such unlawful, riotous and tumultuous assembly, to resort to the place where such unlawful, riotous and tumultuous assembly shall be of persons to the number of twelve or more and there to make or cause to be made proclamation in manner aforesaid.

[Section III.] And be it further enacted by the authority aforesaid, That if such persons so unlawfully, riotously and tumultuously assembled, or twelve or more of them after proclamation made in manner aforesaid shall continue together and

not disperse themselves within one hour, that then it shall and may be lawful to and for every justice of the peace, sheriff or under-sheriff of the county where such assembly shall be, and also to and for every high or petty constable and other peace officer within such county, and also to and for every mayor, justice of the peace, sheriff, bailiff and other head officer, high or petty constable and other peace officer of any city or town corporate where such assembly shall be, and to and for such other person and persons as shall be commanded to be assisting unto any such justice of the peace, sheriff or under-sheriff, mayor, bailiff or other head officer aforesaid (who are hereby authorized and empowered to command all His Majesty's subjects of age and ability to be assisting to them therein) to seize and apprehend and they are hereby required to seize and apprehend such persons so unlawfully, riotously and tumultuously continuing together after proclamation made as aforesaid, and forthwith to carry the persons so apprehended before one or more of His Majesty's justices of the peace of the county or place where such persons shall be so apprehended in order to their being proceeded against for such their offenses according to law; and that if the persons so unlawfully, riotously and tumultuously assembled, or any of them, shall happen to be killed, maimed or hurt in the dispersing, seizing or apprehending or endeavoring to disperse, seize or apprehend them by reason of their resisting the persons so dispersing, seizing or apprehending or endeavoring to disperse, seize or apprehend them, that then every such justice of the peace, sheriff, under-sheriff, mayor, bailiff, head officer, high or petty constable or other peace officer, and all and singular persons being aiding or assisting to them, or any of them, shall be free, discharged and indemnified as well against the King's Majesty, his heirs and successors, as against all and every other person and persons of, for or concerning the killing, maining or hurting of any such person or persons so unlawfully, riotously and tumultuously assembled [that] shall happen to be so killed, maimed or hurt as aforesaid.

[Section IV.] Provided always, and be it further enacted by the authority aforesaid, That if any person or persons do or shall, with force and arms, willfully and knowingly oppose, ob-

struct or in any manner willfully and knowingly let, hinder or hurt any person or persons that shall begin to proclaim or go to proclaim according to the proclamation hereby directed to be made, whereby such proclamation shall not be made, that then every such opposing, obstructing, letting, hindering or hurting such person or persons so beginning or going to make such proclamation as aforesaid shall be adjudged felony without benefit of clergy, and the offenders therein shall be adjudged felons and shall suffer death as in case of felony, without benefit of clergy; and that also every such person or persons so being unlawfully, riotously and tumultously assembled to the number of twelve as aforesaid or more, to whom proclamation should or ought to have been made if the same had not been hindered as aforesaid, shall likewise, in case they or any of them to the number of twelve or more, shall continue together and not disperse themselves within one hour after such let or hinderance so made, having knowledge of such let or hinderance so made, shall be adjudged felons and shall suffer death, as in case of felony, without benefit of clergy.

[Section V.] And be it further enacted by the authority aforesaid, That this act shall be openly read at the next and every other quarter sessions of the peace in each county respectively during the continuance thereof by the clerk of such sessions, by order of the justices thereof.

[Section VI.] And be it further enacted by the authority aforesaid, That this act shall be and continue in full force and virtue during the space of one year from the publication thereof and from thence to the end of the next sitting of assembly and no longer.

Passed February 3, 1764. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed January 12, 1705-6, Chapter 128; and the Act of Assembly passed February 9, 1771, Chapter 618.

### CHAPTER DIX.

AN ACT FOR THE PAYMENT OF TEN THOUSAND NINE HUNDRED AND FORTY-SEVEN POUNDS STERLING IN CERTAIN PROPORTIONS TO SEVERAL COLONIES IN AMERICA.

Whereas the Parliament of Great Britain, upon a most gracious recommendation from the Throne, was pleased to add to their generous donations before repeatedly made by granting the sum of two hundred thousand pounds sterling as a compensation to the colonies in America for their expense in raising, clothing and paying troops employed in the service of the Crown in the year of our Lord one thousand seven hundred and sixty.

And whereas the lords commissioners of His Majesty's treasury established the return to be made by General Amherst of the forces of the several colonies employed as aforesaid as the sole rule of their lordships in the apportionment and distribution of the said sum to and among the colonies, but before the said return was made the agents of this province and the provinces of New York, New Hampshire, Connecticut, New Jersey, Rhode Island and Massachusetts Bay applied to their lordships, representing that it appeared to them that the service performed by their respective colonies in the year aforesaid was exactly similar to that of the preceding year, and therefore humbly desired their lordships to order the apportionment of the said sum in like manner as was done in the year one thousand seven hundred and fifty-nine, agreeing at the same time that if any inequality should appear in that apportionment from General Amherst's return such inequality should be settled and adjusted, whereupon their lordships ordered the same accordingly.

And whereas on General Amherst's return being made, the said apportionment differed materially from that which would have been made on the said return, and it was found that this province had received ten thousand nine hundred and forty-seven pounds sterling and the province of Connecticut three thousand six hundred and nineteen pounds sterling more than

their respective proportions of the said two hundred thousand pounds according to the rule established as aforesaid, which sum of ten thousand nine hundred and forty-seven pounds now remains due in several proportions to the other colonies above mentioned and to the colony of Virginia and it is just and reasonable that the same should be immediately paid.

And whereas by the receipt of the said ten thousand nine hundred and forty-seven pounds this province hath been enabled to sink and destroy a greater quantity of the bills of credit of this government than could otherwise have been done at this time:

[Section I.] Be it therefore enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the provincial treasurer shall, out of the money arising from the provincial tax already received or to be received by him in order to be burnt, sunk and destroyed, retain and keep in his hands the sum of ten thousand nine hundred and forty-seven pounds sterling, or the value thereof in bills of credit of this province, subject to the uses and purposes hereinafter mentioned, any law to the contrary notwithstanding.

[Section II.] And be it further enacted by the authority aforesaid, That the said treasurer shall, out of the money so retained and kept by him, pay in the manner hereinafter directed to any person or persons legally authorized and empowered by the legislatures of the several colonies hereinafter mentioned to receive the same on behalf of the said colonies the said sum of ten thousand nine hundred and forty-seven pounds sterling, in the following proportions, to wit: to the colony of Virginia, the sum of one thousand and nine pounds six shillings and six pence; to the province of New Jersey, the sum of one thousand seven hundred and fifty-seven pounds three shillings; to the province of New York, the sum of four thousand three hundred and sixty-eight pounds, two shillings and six pence; to the province of

Rhode Island, the sum of one thousand nine hundred and ten pounds three shillings; to the province of Massachusetts Bay, the sum of one thousand three hundred and ninety-six pounds six shillings and six pence; and to the province of New Hampshire, the sum of five hundred and five pounds eighteen shillings and six pence; these several sums being the respective proportions of the said ten thousand nine hundred and forty-seven pounds due to the said several colonies on a settlement and adjustment made in pursuance of General Amherst's return as aforesaid and of the aforesaid agreement.

[Section III.] And be [it] further enacted by the authority aforesaid, That the said treasurer shall pay the said several sums by discharging such orders or drafts as shall be drawn upon him in sterling money of Great Britain by any person or persons authorized and empowered as aforesaid respectively, according to the rate of exchange between the cities of London and Philadelphia at the time of such discharge or payment.

[Section IV.] And be it further enacted by the authority aforesaid, That the said treasurer shall account for the said sum so retained as aforesaid with the committee of assembly appointed for settling the public accounts and shall receive the same reward for performing the duties hereby required as if he had paid the whole sum aforesaid in bills of credit of this province to the said committee to be burnt, sunk and destroyed.

Passed March 23, 1764. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII.

## CHAPTER DX.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT FOR TAKING LANDS IN EXECUTION FOR PAYMENT OF DEBTS," 1 AND FOR CONFIRMING PARTITIONS IN SEVERAL INSTANCES HERETOFORE MADE.

Whereas some sheriffs or other proper officers, who have taken lands, tenements and hereditaments in execution in pursuance

of the act, entitled "An act for taking lands in execution for payment of debts," have died or have been removed before any sale made thereof or after sale, but before any deeds executed to the purchasers; whereupon, in case of death, sales have been made, or deeds executed by the successor, and in case of removal sometimes by the successor and sometimes by the sheriff or other officer so removed.

And whereas sundry lands, tenements and hereditaments taken in execution by virtue of writs of fieri facias have been sold and deeds executed for them without any writs of venditioni exponas, by reason whereof doubts have arisen whether such sales are good and effectual in law, to the great inconvenience of purchasers and debtors.

For remedy whereof:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met and by the authority of the same, That wherever a sheriff or other proper officer who hath heretofore taken in execution any lands, tenements or hereditaments in pursuance of the said act hath died or been removed from his office by the expiration thereof before sale made of such lands, tenements or hereditaments, or hath sold the same but hath died or been removed as aforesaid before any deed executed by him to the purchaser, whereupon in case of removal sale hath been made and a deed executed to the purchaser for the premises either by the sheriff or other officer so removed or by his successor, or where the sale hath been made by the sheriff or officer so removed or deceased and the deed executed by his successor, with or without any writ of venditioni exponas, all such deeds and sales made bona fide for valuable consideration before the publication of this act shall be valid in law, and shall convey the same estate to the purchasers that the respective owners had in the premises so sold and conveyed at the time

<sup>1</sup> Passed January 12, 1705-6, Chapter 152.

# 1763-64] The Statutes at Large of Pennsylvania.

of obtaining the judgment or of issuing the execution against them, any law, custom or usage to the contrary in any wise notwithstanding.

[Section II.] And be it further enacted by the authority aforesaid, That whenever any sheriff or other proper officer who shall, pursuant to the said act, hereafter take in execution and sell any lands, tenements or hereditaments shall die or be removed before any deed executed for the same by him to the purchaser, then and in every such case the plaintiff or purchaser may apply to the Supreme Court or to the county court of common pleas wherein judgment was obtained and set forth the case to the said court, with the reason why the title was not perfected by the former sheriff or other officer who sold the same; and thereupon the said court may, as they shall see cause, and as justice and equity shall require, order and direct the sheriff or other proper officer for the time being to perfect such title and execute a deed for the same to the purchaser; and upon such order obtained as aforesaid and entered on the records of the said court, it shall and may be lawful to and for any sheriff or other proper officer, according to the said order and direction, and they are hereby empowered and required, upon the full discharge and payment of the money or price for which the said lands, tenements or hereditaments were sold, with such costs and charges as remain unpaid to the former sheriff or other officer, to make, execute, deliver and acknowledge any deed or deeds and to perform and do all other matters and things that by the former sheriff or other officer might, could or ought to have been performed or done in and about the premises by virtue of the said recited act, which, when done and performed, shall be and be held and adjudged as effectual in law as if the title had been completed by the former sheriff or proper officer.

[Section III.] And be it further enacted by the authority aforesaid, That if any sheriff or other proper officer who shall hereafter take in execution any lands, tenements or hereditaments in pursuance of the said act shall die or be removed before any sale made thereof, then and in every such case the like process shall issue to the succeeding sheriff or other proper officer, and the same proceedings be had that might, could or

ought to have issued or have been had if such former sheriff or other officer had not died or been removed, which proceedings shall be and be held and adjudged as effectual in law as if had before the death or removal of the former sheriff or officer.

And whereas writs of partition have sometimes been executed and partitions made by persons who have been sheriffs after the expiration of their office and it hath been doubted whether such partitions are effectual in law.

For removing such doubts:

[Section IV.] Be it therefore enacted by the authority afore-said, That all partitions that have been made by persons who have been sheriffs after the expiration of their office and confirmed by the courts respectively to which the writs were returnable, where the estates have been quietly held under such partitions and no action or suit hath hitherto been commenced for reversing or annulling the same, shall be and be deemed and adjudged as good and effectual in the law as if such partitions had been made before expiration of the office of the person so making the same.

[Section V.] And be it further enacted by the authority aforesaid, That an act of the general assembly of this province, entitled "A supplement to the act for taking lands in execution for the payment of debts," be and is hereby repealed and made void.

Passed March 23, 1764. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed January 12, 1705-6, Chapter 152.

<sup>1</sup> Passed August 27, 1727, Chapter 299.

#### CHAPTER DXI.

AN ACT FOR THE RELIEF OF SAMUEL WALLIS, A PRISONER IN THE GAOL OF PHILADELPHIA, WITH RESPECT TO THE IMPRISONMENT OF HIS PERSON.

Whereas, Samuel Wallis, by his petition to the last and present assembly of this province hath set forth that he, for a long time, has been and is at present confined in the gaol of the city [and county] of Philadelphia on account of a bond by him executed, conditioned for the payment of five hundred and eighty-six pounds nine shillings and a penny to John Moore, of the said city of Philadelphia, merchant, his executors, administrators and assigns; that the consideration of the said bond was a quantity of goods purchased by the petitioner of the said John Moore and carried to Quebec to negotiate to the best advantage, but to the petitioner's great misfortune on his arrival at Quebec his cargo proved greatly damaged and the market so much crowded with merchandise from different parts that the sale even of such parts of his cargo as escaped damage was rendered impossible and became an useless burden and grievous expense to the petitioner in transporting and returning the same to this port; that when the petitioner was on his said voyage, the said John Moore assigned over his bond aforesaid to Charles Coxe & Company, merchants, in Philadelphia, who, on the petitioner's return to this city, arrested him and continued the same action until the petitioner was delivered into the gaol aforesaid by his bail, where he has been confined ever since; that they, the said Coxe & Company, neglect issuing execution, though they have obtained a judgment, and it is impossible for bail (would it be taken) to be entered by the petitioner; that the said Coxe & Company have brought an action against the said Moore for the same money and have refused to set the petitioner at liberty, although he had made use of all expedients in his power to satisfy them, in order that if he was at liberty he might, in time, pay them the debt aforesaid; that the said Coxe & Company say

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they have no desire to distress or keep the petitioner in gaol, but that it is not in their power to release him, without losing their claim against the said Moore; that the said Moore likewise declares that he has no desire, to distress or keep the petitioner in confinement, but as he has assigned away the said obligation, it is not in his power to release him; so that under his present circumstances the petitioner apprehends that unless he is released by the aid of the assembly he must remain a prisoner for life, notwithstanding he has made every proposal in his power to do, and is still willing, whenever he may be able to make full satisfaction and payment to the said Coxe & Company, as well as his other creditors.

And whereas it hath been further represented to this house by the petition of a considerable number of reputable inhabitants, merchants, traders and others in the city of Philadelphia, that though they are very sensible it cannot be desirable to make precedents of enlarging debtors from the suits of their creditors, yet as they esteem the case of the aforesaid Samuel Wallis singular and almost without example, they pray in his behalf that this house would afford him such relief as may be thought expedient.

And whereas the said Samuel Wallis is willing and ready to assign over all his estate, real and personal, to which he hath any right or title in law or equity to any person or persons in trust, to recover for the use and benefit of his creditors if he, the said Samuel Wallis, might obtain his liberty and freedom of his person from arrests.

Wherefore as well to relieve the said Samuel Wallis from the distress of imprisonment of his person as to render his liberty useful and beneficial to his creditors, we, the representatives of the freemen of the said province do pray that it may be enacted:

[Section I.] And be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the

same, That if the said Samuel Wallis shall, on the sixth day of June next, exhibit to the justices of the court of common pleas of the city and county of Philadelphia, in the county court of common pleas then to be held at Philadelphia for the said city and county, or at any other succeeding court of common pleas to be held for the said city and county, a petition, together with a true and perfect account of all his estate, both real and personal, with the dates of the securities wherein any part of his estate, debts or effects consists, and the deeds or notes relating thereto and the names of the witnesses to the same, so far as his knowledge extends thereto, the said court shall, upon the petition of the said Samuel Wallis and exhibiting such account as aforesaid, with the name of his creditor or creditors at whose suit he is imprisoned, cause the said Samuel Wallis, by an order or rule of court, to be brought up and the creditor or creditors at whose suit he stands charged to be summoned to appear personally or by his or their attorney in court, at a day to be appointed within four months for that purpose, and the said court shall then and there, in the presence of the said creditor or creditors, if he or they will be present, administer to the said Samuel Wallis a legal qualification to the following effect, viz.:

"That the account by him, the said Samuel Wallis, delivered in to that honorable court in his petition to the said court doth contain a true and perfect account of all his real and personal estate, debts, credits and effects whatsoever, which he or any in trust for him have or at the time of his said petition had, or is or was in any respect entitled to in possession, remainder or reversion (excepting the wearing apparel and bedding for himself, not exceeding ten pounds in value in the whole), and that he has not at any time since his imprisonment or before, directly or indirectly, sold, leased, assigned or otherwise disposed of or made over in trust for himself or otherwise, other than as mentioned in such account, any part of his lands, goods, stock, money, debts or other real or personal estate whereby to have or expect any benefit or profit to himself or to defraud any of his creditors to whom he is indebted."

And the said Samuel Wallis having taken such qualification in open court and his creditor or creditors being therewith satisfied or failing to discover any effects or estate of the said Samuel Wallis omitted in such his account, and the said Samuel Wallis making an assignment to any one or more of his creditors as the court shall order and direct, in trust for the rest of them of all his lands, goods and effects contained in such account by a short indorsement on the back of the same account, by which said assignment the estate, interest and property of the lands, goods and effects so assigned shall be vested in the person or persons to whom such assignment shall be made, who may take possession of the same and sue for the same in his or their own

charged from his imprisonment aforesaid.

[Section II.] And be it further enacted by the authority aforesaid, That the person of the said Samuel Wallis, after such his discharge as aforesaid, shall not at any time hereafter be imprisoned for any debts by him before that time contracted.

name or names and that no release of the said Samuel Wallis, his executors or administrators, subsequent to such assignment shall be any discharge or bar to the assignees aforesaid; that then the said court, upon his making such assignment as aforesaid, shall cause and order the said Samuel Wallis to be dis-

Provided nevertheless, That the discharge of the said Samuel Wallis by virtue of this act shall not acquit or discharge any other person from such debt, sum or sums of money for which such person now is bound or engaged for or with the said Samuel Wallis, nor shall in any wise affect or discharge the claim or action which the said Coxe & Company have commenced or may hereafter commence against the said Moore for the bond assigned by him to the said Coxe & Company as aforesaid, but that all others shall be answerable for the same in such manner as they were before the passing of this act.

[Section III.] Provided also and be it further enacted by the authority aforesaid, That if the said Samuel Wallis shall, upon any indictment for taking a false and corrupt oath or affirmation in any matter or thing contained in the said oath or affirmation be convicted by his own confession or by the verdict of twelve men, the said Samuel Wallis shall suffer all the pains and penalties which by law may be inflicted on any person convicted of willful and corrupt perjury, and shall likewise be liable to be arrested, taken and imprisoned upon any process de novo

and charged in execution for the said debt in the same manner as if the said Samuel Wallis had never been in execution or discharged before, and shall ever after be barred of any benefit of this act.

Passed March 23, 1764. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII.

## CHAPTER DXII.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT FOR THE BETTER SETTLING INTESTATES' ESTATES," 1 AND FOR REPEALING ONE OTHER ACT OF GENERAL ASSEMBLY OF THIS PROVINCE, ENTITLED "AN ACT FOR AMENDING THE LAWS RELATING TO THE PARTITION AND DISTRIBUTION OF INTESTATES' ESTATES."2

Whereas an act of general assembly of this province was passed in the fourth year of Queen Anne, entitled "An act for the better settling intestates' estates," which, by one other act, passed in the twenty-second year of His late Majesty, King Georgethe Second, was in some parts thereof altered, explained and amended; and forasmuch as some further explanations and amendments are found necessary, therefore, and in order to reduce the laws relating to intestates' estates into as few acts as may be and repealing such as shall thereby become of no further service:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the fourth day of February, one thousand seven hundred and forty-eight, if, after the death of any

<sup>&</sup>lt;sup>1</sup> Passed January 12, 1705-6, Chapter 135.

<sup>2</sup> Passed February 24, 1748-49, Chapter 374.

father and mother, any of their children hath died or [at any time after the passing of this act] shall die intestate in their minority, unmarried and without issue, but not otherwise, the lands, tenements, hereditaments and estates, real and personal, of every such intestate, shall be equally divided amongst the surviving children and the representatives of any child or children then dead, those representatives taking only such part or share as should have passed to the child or children they represent [respectively] in severalty forever. But if any child, either of age or in his or her minority, having or being entitled to any personal estate under such father shall, after the passing of this act, die intestate, unmarried and without issue, during the life of his or her mother, all such personal estate shall be equally divided between such mother of the deceased and his or her brothers and sisters and their legal representatives, in case any such brother or sister be then dead, they, the said representatives, only taking the share that should have passed to his, her or their parents had he or she been living.

[Section II.] And be it further enacted by the authority aforesaid, That the shares and purparts of intestates' real estates which, by the act for settling intestates' estates aforesaid, are given to widows, shall be construed and understood to be estates for their natural lives respectively, and not otherwise.

And to prevent any doubts which may hereafter arise concerning the manner in which the partition of intestates' [estates] may be made:

[Section III.] Be it enacted by the authority aforesaid, That it shall and may be lawful to and for the justices of the Orphans' court of the county in which the lands and tenements of intestates shall be, upon a petition to them presented by the widow or relict or by any child or children of such intestate, if of age, or by his or her or by their guardian or guardians or next friends, if under age, to appoint four or more persons indifferently chosen on behalf and with consent of the parties, or where the parties cannot agree to award an inquest to make partition according to the purport and true meaning of the act for settling intestates' estates hereinbefore mentioned, but so nevertheless that due regard be had to the amendments made by this act;

and upon the return to them made by the persons so to be appointed or of the inquisition so to be taken to give judgment that the partition thereby made do remain firm and stable forever, and that the costs arising on such suit or suits be paid by all the parties concerned.

Provided nevertheless, That where any estate in lands, tenements and hereditaments cannot be divided amongst the children or widow and children of the intestate without prejudice to or spoiling of the whole, the same being so represented and made appear to the Orphans' court of the county where the same lands or tenements shall be, then the said court may, but not otherwise, order the whole to the eldest son, if he shall accept it, or any of the other sons successively upon the eldest son's refusal; or if there be no son or all the sons refuse, then to the eldest daughter of the said intestate, and on her refusal to any other of the said daughters successively, he or they or some friend for him, her or them paying to the other children of the intestate their equal and proportionable parts of the true value of such lands, tenements or hereditaments as upon a just appraisement thereof pursuant to the act for settling intestates' estates aforesaid is directed, or giving good security for the payment thereof in some reasonable time as the said Orphans' court shall limit and appoint; and the person or persons to whom or for whose use payment or satisfaction shall be so made for their respective parts or shares of the deceased's lands in manner aforesaid shall be forever barred of all right, title or demand of, in, to or out of the intestate's lands and tenements aforesaid. But where the wife is living and the whole premises shall be adjudged and ordered to the heir at law or any other of the children, the wife of the person so deceased shall not be entitled to the sum at which her purpart or share of the estate so as aforesaid ordered to the heir at law or any of the children shall be valued, but the same, together with the interest thereof, shall be and remain charged upon the premises, and the interest thereof shall be regularly and annually paid by the heir at law or such other child to whom the same shall be adjudged, his or her heirs or assigns, holding the said lands to be recovered by such mother by distress or otherwise as rents in this province are usually

recovered to his or her said mother during her natural life, which the said mother shall accept and receive in lieu and full satisfaction for her dower at common law; and at the decease of the said mother the said principal sum so as aforesaid valued and adjudged shall be paid by the said heir at law or other child aforesaid to whom the same shall be adjudged, his or her heirs or assigns holding the premises, and shall be distributed and divided by the said court to and among the said children of her husband and their representatives according to the directions of the act of assembly hereinbefore mentioned made in the fourth year of Queen Anne, allotting two shares to the eldest son or to his representative or representatives.

[Section IV.] And be it further enacted by the authority aforesaid, That where any person, from and after the fourth day of February, one thousand seven hundred and forty-eight, bath made or hereafter shall make his or her last will and testament and afterwards hath married or had or after the passing of this act shall marry or have a child or children not provided for in any such will, and die, although such child or children be born after the death of their father, every such person, so far as shall regard the child or children after born, shall be deemed and construed to die intestate, and such child or children shall be entitled to like purparts, shares and dividends of the estate, real and personal, [of the deceased] as if he or she had actually died without any will; and in such cases the justices of the respective Orphans' courts, so far as regards the wife after married or child or children after born, shall have the same power and authority to make partitions, or where partitions cannot be made without prejudice to or spoiling the whole of that part of the estate devised to any child or children aforesaid, in that case to value, adjudge and order the premises to the devisee or devisces of such part of the estate as cannot be divided as aforesaid, and on the refusal of such devisee or devisees to the children successively, as they may or can do where a person dies wholly intestate; and the devisee or devisees or the child or children to whom the premises shall be adjudged shall pay the money or give sufficient security for the same, as is herein directed where the person dies intestate as aforesaid.

[Section V.] And be it further enacted by the authority aforesaid, That so much of the act of assembly hereinbefore recited, entitled "An act for the better settling of intestates' estates," as is herein and hereby altered or is repugnant to the provisions made by this act, shall be and is hereby repealed, made null and void, anything in the said act contained to the contrary thereof notwithstanding.

[Section VI.] And be it further enacted by the authority aforesaid, That the act hereinbefore mentioned, passed in the twenty-second year of the late King George the Second, entitled "An act for amending the laws relating to the partition and distribution of intestates' estates," <sup>2</sup> and every part thereof shall be and is hereby declared to be repealed and made null and void to all intents and purposes whatsoever.

Provided nevertheless, That nothing in this act contained shall be deemed, construed or taken to bar, defeat or destroy any right, title or interest heretofore arisen or accrued to any person or persons of, in or to any estate, real or personal, or to alter or make void any settlements or partitions of intestates' estates made in virtue of the act herein last before recited and hereby repealed.

Passed March 23, 1764. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the notes to the Acts of Assembly passed January 12, 1705-6, Chapter 135; February 4, 1748-49, Chapter 374. Repealed by the Act of Assembly passed April 19, 1794, Chapter 1751.

<sup>1</sup> Passed January 12, 1705-6, Chapter 135.

<sup>&</sup>lt;sup>2</sup> Passed February 24, 1748-49, Chapter 374.

## CHAPTER DXIII.

AN ACT FOR GRANTING TO HIS MAJESTY THE SUM OF FIFTY-FIVE THOUSAND POUNDS AND FOR STRIKING THE SAME IN BILLS OF CREDIT IN THE MANNER HEREINAFTER DIRECTED, AND FOR PROVIDING A FUND FOR SINKING THE SAID BILLS OF CREDIT BY A TAX ON ALL ESTATES, REAL AND PERSONAL, AND TAXABLES WITHIN THIS PROVINCE.

Whereas many barbarous invasions have been made on several of His Majesty's colonies in America and on the frontiers of this province in particular by divers parties of the northern and western Indians, whereby a great number of the inhabitants have been driven from their habitations, many perfidiously murdered and the most cruel devastations committed in manifest violation of the most solemn treaties of peace lately concluded between our most gracious Sovereign and the said Indians.

And whereas His Majesty's commander in chief in North America has thought it necessary for repelling and preventing the incursions of the said Indians to set on foot certain offensive operations to be prosecuted and carried on by His Majesty's regular forces in conjunction with such as should be required of and raised by the several colonies.

Therefore, we, the representatives of the people of this province, desirous of complying in the fullest manner with the requisition made of them by His Majesty's said commander in chief and of co-operating with such offensive measures as shall be judged necessary for reducing the said Indians and securing the future peace and quiet of the colonies aforesaid, do pray that it may be enacted:

[Section I.] And be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said

Province in General Assembly met, and by the authority of the same, That the sum of fifty-five thousand pounds in bills of credit, to be struck by virtue of this act in the manner hereinafter mentioned, shall be given to the King's use.

And to the end the said fifty-[five] thousand pounds in bills of credit so as aforesaid struck may be duly and fully sunk and destroyed:

[Section II.] Be it further enacted by the authority aforesaid, That there shall be levied on all the estates, real and personal, within this province of all and every person and persons (the proprietaries' waste and unlocated lands only excepted) the sum of eighteen pence for every pound clear yearly value of the said estates. That is to say, on the clear yearly value of the said real estates as the same value shall arise out of the rents of the improved and cultivated parts of such estates as shall be rented and on the clear yearly value of such estates as shall remain in the owner's possession and not rented, to be estimated by the assessors, according to their best discretion and as near as may be to the directions hereinafter mentioned, and on the clear yearly value of all located and uncultivated lands and other real estates and personal property whatsoever, to be rated in the manner hereinafter directed and appointed and to be paid by the owners or possessors thereof: And that every single freeman, whether residing with his parents or elsewhere, who at the time of the assessment shall [have been] out of his apprenticeship or servitude or of twenty-one years of age for the space of six months, shall pay as is hereinafter directed, except such as shall be actually engaged in His Majesty's service as soldiers during the time for which any part of the tax shall be levied.

All which said several sums so to be raised as aforesaid shall be assessed and levied from and after the tenth day of March, in the year of our Lord one thousand seven hundred and seventy, and shall be collected and paid as is hereinafter directed on or before the tenth day of March, one thousand seven hundred and seventy-two, in the same manner as the money given and granted to the King's use in and by an act of general assembly of this province passed in the twenty-ninth year of the late reign,

entitled "An act for granting the sum of sixty thousand pounds to the King's use and for striking fifty-five thousand pounds thereof in bills of credit, and to provide a fund for sinking the same," &c.,¹ is directed, and every article, clause and thing therein contained concerning the assessing and levying the taxes therein mentioned and the duties of the several officers and the allowances for their trouble enjoined them by the said act and the penalties and forfeitures for refusal or neglect thereof shall be used, exercised and put in practice for assessing and levying the tax hereby imposed and for discharging the respective duties and offices thereof as if the same articles, clauses and things were inserted in this act, except in such cases as are herein ascertained, provided for or altered.

[Section III.] And be it further enacted by the authority aforesaid. That the freeholders and others qualified to elect members of assembly of every township and borough in each county within this province and of every ward in the city of Philadelphia [and of the district of Southwark] shall [respectively] meet together on the twenty-seventh day of September next, and so on the same day in the same month every year [after] during the continuance of this act, unless the same shall happen to be on Sunday, and then on the day before, and between the hours of nine in the forenoon and three in the afternoon, choose, by way of ballot or by tickets in writing, one discreet and reputable freeholder, who may be supposed to be best acquainted with the estates and circumstances of the inhabitants, and residing within the said township, borough, ward [or district] for an assessor, whose name shall be returned in writing, under the hands of two or more of the electors to the sheriff of the respective county, on or before the first day of October next following by the constable of the said township, [borough, ward or district], at the same time he shall return the inspector directed to be chosen on the same day by a law of this province now in force; and the said sheriff shall deliver in writing within five days after the receipt of such return the names of the persons so chosen and returned for assessors to one or more of the commissioners of the said county, under the penalty of twenty

<sup>1</sup> Passed November 27, 1755, Chapter 406.

pounds, which said assessor so chosen as aforesaid for the respective township, borough, ward [or district aforesaid] shall and is hereby enjoined and required to go to the place or places of abode of all and every person and persons residing therein and make a faithful and diligent inquiry into and endeavor by all lawful ways and means in his power to procure a true and exact account of the real and personal estates of every inhabitant thereof and the real estates of non-residents therein and of the true value of such estates.

[Section IV.] And be it further enacted by the authority aforesaid, That the commissioners of the respective counties shall, within fourteen days after the first day of October [next], give notice in writing to the county assessors to meet them on a certain day and place therein to be appointed and then and there the said commissioners and assessors shall proceed to divide their respective counties into districts, allotting any number of townships, boroughs, wards [and district of Southwark aforesaid! not exceeding five lying nearest to each other, into one district, until the whole county shall be divided as aforesaid. And they shall also then and there nominate and appoint the day or days on which the assessors of each district or division so as aforesaid made shall attend in order to join with and assist the county assessors to rate and assess the district for which they shall be so respectively chosen and no other, which they, the said assessors are hereby authorized, enjoined and required to do; of which day or days and place so appointed the commissioners are hereby commanded to give notice in the precepts hereinafter directed to be issued to the said assessors of the respective townships, boroughs, wards [and district of Southwark aforesaid]. But before the said assessor so chosen for each township, borough, ward [and district of Southwark aforesaid in the respective counties shall enter upon the execution of the duties enjoined and required of him by this act, he shall, before some magistrate of his county, take an oath or affirmation that he will well and faithfully, to the best of his skill, judgment and abilities, discharge and perform all and every the acts and duties hereby enjoined and required of him.

[Section V.] And be it further enacted by the authority afore-

said, That the commissioners of the several counties shall (under the penalty of fifty pounds) at the expense and costs of the respective counties provide printed lists of ratable property in the manner and form hereinafter specified and deliver them to the assessors of every township, borough, ward [or place] within their county, together with the precepts hereinafter directed to be issued by them to the said assessors, one of which said printed lists the said assessor shall, at the time of making the inquiry aforesaid, deliver to every person residing within his township and by this act directed to be assessed or leave the same at his or her house during the space of fifteen days, and that every such person within that time shall fill up or insert in the several and respective columns, or procure the same to be done, with such and so much of the several kinds of property in the said list mentioned as he or she shall own and possess [within this province], and sign the said list with his or her own hand and re-deliver the same to the assessor when demanded, which said list the said assessor shall return and deliver to the county assessors at the day and time when the precepts aforesaid shall be returned: and if any owner of property aforesaid shall neglect or refuse to fill up and sign such list as aforesaid, he or she shall forfeit and pay double the amount of his or her whole rate; and if any such person shall not give a just and true account and report of the several kinds of property of which he or she is possessed, mentioned and specified in the list aforesaid, every such person shall forfeit and pay fourfold upon the rate at which the property so concealed ought to be rated in pursuance of this act.

[Section VI.] And be it enacted by the authority aforesaid, That the commissioners of the respective counties, or any two of them, shall within ten days after the county is divided into districts [as aforesaid], under the penalty of fifty pounds, issue forth their precepts, directed to the assessor of every township within their county, requiring him to bring to the county assessors, within four weeks next after the date of such precepts, fair and true certificates in writing of the names and surnames of all and every the persons dwelling or residing within the limits of that township, ward, borough or place with which he shall be

charged, and the names of all freemen, inmates, hired servants and all other persons residing or sojourning in the same township, ward, borough or place, together with an account of what tracts and parcels of land and tenements they respectively hold, as also how many and what part of those tracts are settled, improved or cultivated, how many bound servants and negroes, and what stock of cattle, horses, mares and sheep they possess, and what quit-rents they respectively are liable to pay to the proprietaries yearly within this province, also all grist-mills, saw-mills and all other mills, forges, furnaces, mines, rents, ground-rents, trades or occupations, and all offices and posts of profit, bodies politic and corporate, having estate or income (hospitals and charity schools only excepted), together with what other property they respectively hold, and also an account of all such located lands as belong to the honorable the proprietaries of this province or either of them, and such other land as by the hereinbefore mentioned act for granting sixty thousand pounds to the King's use and by this act is particularly set forth and directed to be assessed, without concealment, fear, malice, favor or affection, together with the lists so filled up and signed by the owners of estates as aforesaid, which lists shall be in the form following:

	Counties and Townships where the property lies.			
•••••				Improved marsh meadow in grass.
				Marsh meadow in bank.
••••••				Cultivated lands.
•••••				Uncultivated lands.
		1 1 1	••••	Houses and lots in cities, bor-
••••••				oughs and towns.
• • • • • • • • • • • • • • • • • • • •		. ' '		Improved grass lots near
				cities, boroughs and towns.
•••••				Unimproved lots in and near
		.	'	cities, boroughs, &c.
			••••	Rents.
		.		Ground-rents.
		.		Quit-rents.
•••••	••••			Lands belonging to forges,
				furnaces, &c.
•••••	••••	.	• • • • • • • • • • • • • • • • • • • •	Mills, expressing their kind.
		.;		Trade.
• • • • • • • • • • • • • • • • • • • •	• • • • • • • • • • • • • • • • • • • •		• • • • • • • • • • • • • • • • • • • •	Professions.
• • • • • • • • • • • • • • • • • • • •		.	• • • • • • • • •	Occupations.
• • • • • • • • • • • • • • • • • • • •				Annual salaries.
• • • • • • • • • • • • • • • • • • • •				Lucrative posts.
• • • • • • • • • •	i			Ferries.
• • • • • • • • • • • • • • • • • • • •	·	· · · · · · · · · · · · · · · · · · ·		Horses and mares.
				Horned cattle.
• • • • • • • • • • • • •	·			Sheep.
	:			Bound servants.
	!			Negro and mulatto slaves.
				with their ages.
				Single men.
	: 1			Inmates.
				,
	1			

[1764.] The above is a just and true account of the quantity of the abovementioned several kinds of property possessed by me at this time. Witness, my hand,

[Indorsed on the back:] If any person shall not give a just and true account and report of the several kinds of property of which he or she is possessed, mentioned and specified in the list aforesaid, every such person shall forfeit and pay four fold upon the rate at which the property so concealed ought to be rated.

[Section VII.] And be it further enacted by the authority aforesaid, That the assessor of the several townships, boroughs, wards and the district of Southwark shall, in like manner as aforesaid, deliver to all agents, receivers, attorneys in fact

or others in any manner intrusted with the property of non-residents liable to be rated by this act one of the printed lists of ratable property aforesaid or leave the same at their places of abode respectively during the space of fifteen days, who shall, within that time, fill up the same with all such ratable property as shall belong to their constituents within this province with the receipt or management whereof they are intrusted, under the penalty of forfeiting double the value of the rate or tax of such property, and shall in like manner as aforesaid pay fourfold for all such of their constituents' property ratable as aforesaid which they shall wittingly conceal.

[Section VIII.] And be it further enacted by the authority aforesaid, That where the owner of ratable property shall reside in one county and have property in another, or where the agent, receiver, attorney or other person intrusted as aforesaid shall reside in one county and be intrusted with property in another and does as aforesaid return any property in another county than that in which they respectively reside, the assessors of the county to whom such lists shall be returned shall forthwith report and transmit to the assessors of the county where such property shall be a true account thereof, in order that the same may be duly and impartially assessed according to the true intent and meaning of this act.

[Section IX.] And be it further enacted by the authority aforesaid, That the assessors of the respective counties shall meet at the day and place to be appointed as aforesaid by the commissioner's precepts and then and there receive the returns of the assessors so chosen by the freeholders and inhabitants of the respective townships, boroughs, wards and district of Southwark aforesaid, and thereupon proceed, in conjunction with the assessors of each respective district, who shall have the same powers with the county assessors, to rate and assess the same townships, boroughs and wards within the same district. And the said rates and assessments of one district being finished, they, the said county assessors, together with the assessors elected by the townships, boroughs, wards and the district of Southwark aforesaid respectively, shall proceed to rate and assess another district in the same manner until they shall have

rated and assessed the whole county, according to justice and good conscience. And the assessors of each district shall and they are hereby enjoined and required to attend on the day of appeal, which shall be appointed by the commissioners for their respective districts in the same manner and for the same purposes as the county assessors are directed and required by the act for raising county rates and levies.

[Section X.] And be it further enacted by the authority aforesaid, That if any of the townships or boroughs within this province or any of the wards of the city of Philadelphia, or the said district of Southwark, shall neglect or refuse to choose an assessor as is hereinbefore directed, the constable of every township, borough, ward or the said district of Southwark so neglecting shall forthwith, under the penalty of ten pounds, give notice thereof to the commissioners of the respective county, who shall and they are hereby authorized and enjoined as soon as may be to make choice of one assessor residing in every township, borough, ward or the said district of Southwark so as aforesaid neglecting, to which said assessor the said commissioners shall forthwith issue their precept as aforesaid, and the said assessor or assessors so as aforesaid appointed by the said commissioners shall be under like qualifications and have the same powers and authorities and shall perform all the duties of assessors under the same pains, penalties and forfeitures as if the said assessor or assessors had been chosen by the major vote of the freeholders and inhabitants of the respective townships or boroughs within this province or of the wards of the city of Philadelphia or of the district of Southwark as is hereinbefore directed.

[Section XI.] And be it further enacted by the authority aforesaid, That the assessors of the several counties within this province shall and they are hereby enjoined and required, under the penalty of fifty pounds, after the assessment in each respective county is made and finished, to deliver to the respective commissioners a book containing true transcripts of their said assessments, certified under their hands, together with the quantity of all and every tract of land and how much they are rated at per hundred acres, and also the quantity of the personal

estate of all and every person and taxable in [each] and every of the places aforesaid within their counties respectively and in what manner the same was rated and assessed and an account of all single men rated per head, stating a regular and fair account with every person hereby directed to be rated and assessed in their respective counties and charging therein in a clear and plain manner every particular species of property, with the quantities of each kind thereof and the value upon the same assessed, which said book or transcripts shall remain open and free in the hands of the commissioners for the inspection and perusal of all and every person rated and assessed in the respective counties without fee or reward, and duplicates thereof shall be by the commissioners laid before the assembly for the time being at their next meeting after the said assessments are regulated and adjusted by the commissioners, under the penalty of fifty pounds each.

[Section XII.] And be it further enacted by the authority aforesaid. That in case of the death of any of the commissioners or assessors, or their neglect or refusal to act in discharge of the duties required of them by this act, then and in every such case the remaining commissioners and assessors of the respective county for the time being, or the major part of them, shall appoint others to supply the place or places of such as shall so die, neglect or refuse to act from time to time as occasion may require, which commissioner and assessor or assessors so chosen shall take the oaths or affirmations in the manner prescribed to be taken by the laws of this province, and shall, thereupon, have all the powers and authorities and shall perform all the duties as commissioners and assessors chosen by the direction of the laws of this province in the respective counties to all intents and purposes whatsoever. And the commissioners who shall put this act in execution, instead of the oaths or affirmations prescribed to be taken by former acts by the commissioners and assessors, shall take an oath or affirmation to the following effect, viz.:

"You shall well and truly cause the rates and sums of money by virtue of this act imposed to be duly and equally assessed and laid, according to the rules and directions mentioned in the act, entitled 'An act for granting to His Majesty the sum of

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fifty-[five] thousand pounds and for striking the same in bills of credit,' &c., and to the best of your skill and knowledge, so far as relates to the duty and office of a commissioner, and herein you shall spare no person for favor or affection or grieve any for hatred or ill-will."

Which qualification shall be administered as in and by the act for raising county rates is enjoined and required.

[Section XIII.] And be it further enacted by the authority aforesaid, That the commissioners and assessors of the respective counties for the time being, or the major part of them, and no other, are hereby empowered and required as often as there may be occasion during the continuance of this act, to choose a treasurer for each county, who shall have all the powers and shall be subjected to all the duties, penalties and forfeitures as by the acts now in force they are or ought to be invested with or subjected to.

[Section XIV.] And be it further enacted by the authority aforesaid, That the provincial treasurer for the time being shall, out of the moneys paid into his hands by virtue of this act, yearly and every year, for the space of two years next ensuing the first day of October, one thousand seven hundred and seventy, pay into the hands of the committees of assembly yearly appointed to settle the public accounts, the sum of twenty-seven thousand five hundred pounds in bills of credit of this province, which the said committees are hereby enjoined and required yearly during the said term of two years to burn, sink and destroy.

And the provincial treasurer shall have and receive for his care and trouble the sum of five shillings for every hundred pounds he shall so receive and pay and no more.

And the assessors chosen as aforesaid, for their care and trouble in making the returns and attending the assessors of the county and other the duties enjoined them by this act, shall have and receive five shillings per diem, and no more.

And the county assessors, for their time and labor in their assessments, shall be allowed five shillings per diem, and no more.

[Section XV.] And be it further enacted by the authority aforesaid, That if any of the commissioners or county assessors

or the assessors of the several townships, boroughs, wards or the said district of Southwark, shall refuse or neglect to perform and discharge the duties required of them by this act, each and every of the said commissioners or assessors so refusing or neglecting shall forfeit, such commissioner the sum of fifty pounds, and such assessor any sum not exceeding fifty pounds, and the commissioner or commissioners and county assessors who shall act, or a majority of them, shall appoint some other fit person or persons in the place or stead of such as shall refuse or neglect to act as aforesaid or of such as shall be rendered incapable by sickness or other unavoidable accident. And every collector or collectors who shall neglect or refuse to take upon him or themselves the trust and duty required of him or them by this act, he or they so refusing or neglecting shall forfeit and pay to the county treasurer the sum of ten pounds each, and the commissioners shall appoint some other fit person or persons in the place or stead of the collector or collectors so refusing or neglecting as aforesaid, all which said fines and forfeitures shall be levied in the same manner that the fines and forfeitures imposed and inflicted by the act for raising county rates and levies are directed, and when recovered shall be added to the provincial stock.

And in order that the sum of fifty-five thousand pounds may be equitably and effectually raised, according to the true intent and meaning of this act, for the sinking the bills of credit hereby directed to be struck and granted to the King's use:

[Section XVI.] Be it enacted by the authority aforesaid, That the said sum of fifty-five thousand pounds shall be assessed, raised and levied on all the estates real and personal aforesaid within this province in manner and according to the rules and directions following, That is to say,

All improved embanked meadow in the county of Philadelphia sowed or in good grass, shall be rated by the assessors of the county of Philadelphia in manner following, to wit:

The best improved embanked meadow aforesaid, considering the situation thereof, at ninety pounds per hundred acres, and the worst improved embanked meadow aforesaid at thirty pounds per hundred acres; and all embanked meadow of an intermediate value in a just comparative proportion to the above rates and valuations.

All improved and embanked meadow in the counties of Bucks and Chester, the best thereof, considering the situation, shall be rated at sixty pounds per hundred acres, and the worst thereof at thirty pounds per hundred acres, and all embanked and improved meadow of any intermediate value in a just and comparative proportion to the above rates and valuations.

All embanked meadow in the several counties not cleared, the best thereof, considering the situation, shall be rated at twenty pounds per hundred acres, and the worst at ten pounds per hundred acres, and the same kind of meadow of any intermedi[ate] value in a just and comparative proportion to the above rates and valuation.

All cultivated lands and plantations, with the buildings and improvements thereon, in the possession of the owners, shall be rated in the several counties of this province at three-fifths of such yearly value as the assessors shall judge the same would rent for, having a regard to and rating the same as nearly as may be in proportion to the rent of such plantations as they shall find reasonably and justly rented in the respective townships or counties, allowing a reasonable quantity of timber land for repairs and fuel; and all improved plantations, which shall be rented shall be rated at three-fifths of the rent reserved; and all uncultivated parts of such plantations shall be rated as located and unimproved lands are hereinafter directed to be rated.

All located and unimproved tracts of land shall be rated in manner following, to wit: The best of such lands, considering the situation thereof, at fifteen pounds per hundred acres and the worst at five pounds per hundred acres, and the same kind of land of any intermediate value in a just and comparative proportion to the above rates and valuations.

All houses and lots in any city, borough or town or in the district of Southwark shall be rated at three-fifths of their yearly rent, or if the said houses and lots shall remain in the possession of the owners thereof, then and in such case at three-fifths of such yearly rent as the same shall be judged by the assessors to be reasonably worth, having a regard to and rating the same

as nearly as may be in proportion to the rent of such houses and lots as they shall find rented in such city, borough, township or district aforesaid.

All improved grass lots in or near any city, borough, town or the district of Southwark shall be rated in the manner last aforesaid.

All unimproved lots in or near any city, borough, or town [or the district of Southwark] (the lots granted by the charter of the city of Philadelphia for the use of the said city only excepted) shall be rated at the value which they do or may rent for on short leases.

All ground-rents and quit-rents shall be rated at their full annual value.

All lands appertaining to furnaces and forges shall be rated as other lands of the same kind are hereby directed to be rated, and if the rents of such furnaces and forges, with the lands and improvements thereunto belonging do not exceed the said valuation or rate the same shall be the rate whereupon to estimate the tax; but if the rents of the furnaces and forges, with the appurtenances aforesaid exceed the rates of the lands only, then and in such case one-half of the difference shall be added to the valuation or rate of the lands as aforesaid, and the said furnaces and forges, together with the said lands, shall be rated at the whole amount thereof.

All grist-mills, saw-mills and other mills whatsoever shall be rated at three-fifths of the sums they do or may rent for, and the lands leased with the said mills or appurtenant thereto shall be rated as other lands of the same kind are directed to be rated.

All trades, occupations and possessions shall be rated at the discretion of the assessors.

All annual salaries and lucrative posts and offices shall be rated at four-fifths of the sums annually received for the same.

All ferries shall be rated at three-fifths of the sums they do or may rent for, to be paid in the counties where the persons keeping such ferries reside, and the lands leased with the said ferries, or appurtenant thereto, shall be rated as other lands of the same kind are directed to be rated.

All horses and mares above three years old shall be rated at thirteen shillings and four pence per head.

All horned cattle above three years old shall be rated at six shillings and eight pence per head and all sheep at one shilling per head.

All white servants from fifteen to fifty years of age shall be rated at thirty shillings per head, and all negro or mulatto slaves from twelve to fifty years of age shall be rated at four pounds per head.

All single men residing in this province shall be assessed and pay fifteen shillings per head, and their property shall be rated in like manner as the same property belonging to other persons and in no other manner whatsoever.

[Section XVII.] And be it further enacted by the authority aforesaid, That the commissioners and assessors of every county within this province, together with the assessors so chosen and appointed as aforesaid, shall proceed to assess, rate and levy the taxes and sums of money which are by several former laws directed to be assessed, raised and levied for sinking the bills of credit that have been heretofore struck and granted to His Majesty's use upon the same returns of property and in the same manner as is hereinbefore directed and appointed and in no other manner whatsoever.

[Section XVIII.] And be it further enacted, That such of the frontier inhabitants of this province as have been driven from their settlements and lost a part or all of their effects by the late Indian incursions, shall be allowed an abatement of their taxes in part or in the whole by the assessors of the several counties and townships for the space of two years next after the publication of this act, according to the discretion of the said assessors, upon their taking into their consideration the losses such inhabitants have sustained, anything in this act or any other law of this province contained to the contrary notwithstanding.

[Section XIX.] And be it further enacted by the authority aforesaid, That if any persons or persons whatsoever, or their agents, shall conceive themselves aggrieved by the determinations of the commissioners of any of the counties appointed to hear appeals made from the assessments of the assessors to be

chosen and appointed by virtue of this act, it shall and may be lawful for such person or persons, or their agents, within ten days after such determination or judgments of the said commissioners, to appeal to Philip Syng, for the city of Philadelphia; Thomas Livezley, for the county of Philadelphia; Mahlon Kirkbride, for the county of Bucks; John Fairlamb, for the county of Chester; Moses Irwin, for the county of Lancaster; Michael Swope, for the county of York; James Galbreath, for the county of Cumberland; Jonas Seely, for the county of Berks, and John Moor for the county of Northampton, who are hereby appointed provincial commissioners of appeal, and they, or any five of them, are hereby authorized, empowered and required to hear the same appeal and strictly to examine the person or persons, or their agents, so appealing, on their oaths or affirmations concerning the matter and cause of their appeal and the property hereby directed to be rated which they possess or are intrusted with the management of, and also to call any person or persons before them who they may apprehend can give them any information in the matters depending before them, and to examine such persons, on their oaths or affirmations (which said oath [or affirmations] they are hereby empowered to administer), and finally determine according to justice and equity; and the said commissioners shall have and receive six shillings per diem for every day they shall be engaged in determining the appeals aforesaid, and three pence per mile for every mile they shall [travel] from their respective habitations to the place of their sitting and in their return, to be paid by the provincial treasurer, out of the taxes aforesaid.

[Section XX.] And be it further enacted by the authority aforesaid, That upon the entry of such appeal before the commissioners of appeal of the county, the appellant shall forthwith give notice to the provincial commissioners of appeal residing in the county where the lands or property are rated, who shall forthwith call to his assistance four or more of the other provincial commissioners hereby appointed and, together with them, proceed to hear and determine such appeal with all others that may come before them, at a certain time and place to be appointed within his county by the said commissioner so having



notice of such appeal within the space of thirty days after the final adjustment of the appeals by the county commissioners, of which said day the collector of each township where such appellants may reside shall give notice to the said appellant, and the determinations of a majority of the commissioners present at the hearing of such appeals shall therein be final; but before any of the said provincial commissioners shall take upon themselves the duty by this act required of them, each of them shall take an oath or affirmation before some justice of the peace to the following effect, viz.:

"You shall well and faithfully perform and discharge the duty of a provincial commissioner of appeals and shall duly and equally rate and assess all appellants who shall come before you and therein spare no person or persons for favor or affection or grieve any person or persons for hatred, malice or ill-will."

[Section XXI.] And be it further enacted and provided nevertheless, That towards sinking the sum of money granted to His Majesty's use by virtue of this act, the located uncultivated lands belonging to the proprietaries shall not be assessed higher than the lowest rate at which any located uncultivated lands belonging to the inhabitants shall be assessed; and that all lands not granted by the proprietaries within boroughs and towns be deemed located uncultivated lands and rated accordingly and not as lots, anything in this act to the contrary thereof in any wise notwithstanding.

[Section XXII.] And be it further enacted by the authority aforesaid, That bills of credit to the value of fifty-five thousand pounds current money of America, according to an act of Parliament made in the sixth year of the reign of Queen Anne for ascertaining the rates of foreign coins in the plantations in America, shall be prepared and printed on good strong paper, under the care and direction of Charles Norris, Mahlon Kirkbride and John Morton, Esquires, at such time or times as the provincial commissioners, or a major part of them, with the approbation of the governor or commander in chief of this province for the time being shall direct and order, the charge whereof shall be paid by the provincial treasurer out of the moneys arising from the next tax raised and paid into his hands

after the publication of this act, which bills shall be made and prepared in manner and form following, and no other, viz.:

And the said bills shall have such like escutcheons as in the margin hereof, with such other devices on the said bills as the said Charles Norris, Mahlon Kirkbride and John Morton shall think fit, as well to prevent counterfeits as to distinguish their several denominations, each of which bills shall be of the several and respective denominations following, and no other, viz.:



Eighty thousand of the same bills, the sum of three pence in each of them.

Sixty thousand of the same bills, the sum of four pence in each of them.

Sixty thousand of the same bills, the sum of six pence in each of them.

Sixty thousand of the same bills, the sum of nine pence in each of them.

Thirty-seven thousand of the same bills, the sum of one shilling in each of them.

Twenty-two thousand of the same bills, the sum of eighteen pence in each of them.

Twenty thousand of the same bills, the sum of two shillings in each of them.

Twenty thousand of the same bills, the sum of two shillings and six pence in each of them.

Forty thousand of the same bills, the sum of five shillings in each of them.

Twenty thousand five hundred of the same bills, the sum of ten shillings in each of them.

Twenty-one thousand of the same bills, the sum of twenty shillings in each of them.

And the said Charles Norris, Mahlon Kirkbride and John

Morton shall use the best of their care, attention and diligence during the printing of the said bills, that the number and amount thereof, according to their respective denominations aforesaid, be not exceeded nor any fraudulent or clandestine practice used by the printer, his servants or others concerned therein.

And for perfecting the said bills to make them current within this province, according to the true intent and meaning of this act:

[Section XXIII.] Be it further enacted by the authority aforesaid, That all and every of the said bills of the value of one shilling and upwards shall be signed by three of the persons hereinafter named, and no more, and all under the value of one shilling shall be signed by one of them, and no more, That is to say, Henry Harrison, Joseph Sims, Joseph Stamper, William Bingham, Samuel Neave, Jonathan Evans, Thomas Gordon, Jacob Lewis, Isaac Greenleafe, Thomas Wharton, Samuel [Preston Moore], John Gibson, Peter Reeve, Joseph Sanders, Joseph Stretch, Joseph Jacobs, Isaac Stretch, John Hughes, Junior, George Roberts, William Lloyd, Samuel Rhoads, Junior, Amos Hilbourn, Cadwalader Morris, Thomas Maybury, John Mease, Junior, John Bringhurst, Thomas Clifford, George Clymer, Henry Drinker, Samuel Hudson, Samuel Morris, Junior, Jacob Shoemaker, Junior, Enoch Story, George Dillwyn, Richard Wells, Charles Pettit, John Mifflin, Abel James and Benjamin Morgan, who are hereby nominated and appointed to be signers of the said bills, and shall, before they receive or sign any of the said bills, take an oath or affirmation to the following effect, to wit:

"That they shall well and truly sign and number all the bills of credit that shall come to their hands for that purpose by the direction of this act, and the same so signed and numbered will deliver, or cause to be delivered, unto the said Charles Norris, Mahlon Kirkbride and John Morton pursuant to the direction of this act."

[Section XXIV.] And be it further enacted by the authority aforesaid, That the said Charles Norris, Mahlon Kirkbride and John Morton, after the said bills are printed, shall deliver them to the said signers, to be signed and numbered, by parcels, for

which the said signers, or some of them, shall give their receipt, of all which bills of credit so delivered to be signed by the said Charles Norris, Mahlon Kirkbride and John Morton, true account shall be kept by the signers, who, upon their redelivery of each or any parcel of the said bills of credit by them signed and numbered to the said Charles Norris, Mahlon Kirkbride and John Morton, shall take the receipt of the said Charles Norris, Mahlon Kirkbride and John Morton to charge them before any committee of assembly to be appointed for that purpose.

And each of the said signers shall have fifteen shillings for every thousand of the aforesaid bills by them signed and numbered, to be paid by the provincial treasurer out of the first money that shall come to his hands after the publication of this act.

[Section XXV.] And be it further enacted by the authority aforesaid, That all the aforesaid bills of credit to be made as this act directs shall be current bills of this province until the first day of October, in the year of our Lord one thousand seven hundred and seventy-two and no longer, and as such during the said term be received in payments for the discharge of all manner of debts, rents, sum and sums of money whatsoever due, payable or accruing upon or by reason of any mortgage, bill, bond, specialty, note, book account, promise or other contract or cause whatsoever as if the same were tendered or paid in the coins mentioned in such bond or other writing, book account, promise, assumption or any other contract or cause whatsoever, and at the rates ascertained in the said act of Parliament, and shall be so received in all payments by all persons whatsoever, the sterling rents due or to become due to the proprietaries of this province only excepted.

[Section XXVI.] And be it further enacted by the authority aforesaid, That if any person or persons shall presume to counterfeit any of the said bills of credit made current by this act, or shall be aiding or assisting therein, or shall enlarge the sum expressed in any of the said bills or shall utter or cause to be uttered or offered in payment any such bill or bills, knowing the same to be forged or counterfeited or the sum or value therein altered with intent to defraud any other person, he, she or they

so offending and being thereof legally convicted shall for every such offense incur and suffer the same pains and penalties respectively as forgers, counterfeiters or alterers of bills of credit by former acts of assembly now in force, or any of them, are directed to incur and suffer. And the discoverer or prosecutor, by virtue of this present act, shall be entitled to the same rewards as by the said former acts, or any of them, are directed in respect to the bills thereby made current.

Provided always, That the said Charles Norris, Mahlon Kirkbride and John Morton, before they enter upon the execution of their trust, shall, each of them, first take an oath or affirmation before some magistrate of the city or county of Philadelphia, and likewise give bond to the provincial treasurer for the time being in the sum of three thousand pounds with condition for the due execution of their trust and performance of all things required of them by this act.

[Section XXVII.] And be it further enacted by the authority aforesaid, That Lynford Lardner, Thomas Cadwalader, Benjamin Franklin, Joseph Fox, John Hughes, Joseph Galloway and John Baynton, Esquires, or the major part of them or of the survivors of them, with the consent and approbation of the governor or commander in chief of this province for the time being, and not otherwise, shall order and appoint the disposition of the moneys arising by virtue of this act for and towards raising, paying and clothing one thousand men exclusive of commissioned officers, to be commanded by their proper field officers, to act in conjunction with a body of His Majesty's British forces until the first day of November next ensuing or until they shall be discharged, in such operations as shall be carried on and prosecuted by His Majesty's commander in chief, and for and towards such other purposes as by the governor or commander in chief of this province for the time being and by the said provincial commissioners, or a majority of them, shall be judged necessary for His Majesty's service.

And that the said Lynford Lardner, Thomas Cadwalader, Benjamin Franklin, Joseph Fox, John Hughes, Joseph Galloway and John Baynton, Esquires, or a majority of them, shall and they are hereby required, as often as there shall be occasion for money for the purposes aforesaid, to draw orders upon the said Charles Norris, Mahlon Kirkbride and John Morton, which orders so drawn and paid shall be produced to the committee of assembly for the time being and by them allowed in discharge of so much of the money granted to the King's use by virtue of this act; and the said commissioners, for their trouble in discharging the duties of commissioners hereby required, shall have and receive the sum of fifty-five pounds each and no more, to be paid in the manner hereinbefore directed for defraying the charges arising upon printing and signing the bills of credit made current by virtue of this act.

And the said Charles Norris, Mahlon Kirkbride and John Morton, for their trouble in performing the duties enjoined them by this act, shall have and receive ten shillings for every hundred pounds and no more, to be paid in the manner last aforesaid.

And whereas the commissioners nominated and appointed by an act of general assembly of this province, entitled "An act for granting to His Majesty the sum of twenty-four thousand pounds for the defense and protection of this province and for other purposes therein mentioned," have, with the consent of the governor, already expended the said sum of twenty-four thousand pounds and have entered into contracts for the King's service in the defense of this province for the defraying whereof there are at present no subsisting funds:

[Section XXVIII.] Therefore be it enacted by the authority aforesaid, That the said Charles Norris, Mahlon Kirkbride and John Morton shall and they are hereby authorized and empowered out of the moneys arising by virtue of this act to pay and discharge all such debts and contracts as the commissioners appointed by the act hereinbefore mentioned for granting twenty-four thousand pounds to the King's use shall certify, under their hands or the hands of the major part of them, to be debts justly due and contracts entered into for the King's service and properly chargeable to this province.

And in order to prevent impositions on the soldiery in the purchasing their military habits and clothing:

<sup>1</sup> Passed October 22, 1763, Chapter 505.

[Section XXIX.] Be it enacted by the authority aforesaid, That it shall and may be lawful to and for the commissioners appointed to dispose of the money granted by this act, and they are hereby enjoined and required to agree with some person or persons to procure and purchase the necessary clothing for such of the men as are already raised or directed to be raised by this act for the ensuing campaign, and to allow him or them a reasonable commission for his or their trouble and service in purchasing the same and superintending the making and preparing them fit for use, not exceeding two and a half per centum, which person or persons shall settle his or their accounts with the said commissioners and the expense of the said clothing shall be deducted out of the pay due to each respective soldier who shall be clothed in manner aforesaid, and the commissions arising thereon shall be paid and discharged out of the sum hereby granted to His Majesty's use.

[Section XXX.] And be it further enacted by the authority aforesaid, That all the fines and forfeitures imposed and arising by virtue of this act shall be levied and recovered in the same manner as the fines and forfeitures inflicted by the hereinbefore mentioned act for raising county rates and levies are directed to be recovered and shall be paid and added to the sum to be raised, levied, assessed and collected by virtue of this act for the purposes hereinbefore mentioned.

[Section XXXI.] And be it further enacted by the authority aforesaid, That if the yearly taxes to be levied by virtue of this act shall not be sufficient to raise the full sum of fifty-five thousand pounds hereby granted to His Majesty and defray all incident charges in such case a further tax shall be laid and levied in the succeeding year or years in the same manner as the said two yearly taxes are directed to be laid and levied until the said fifty-five thousand pounds be fully completed; and if the said two yearly taxes shall produce more than the said fifty-five thousand pounds, the incident charges as aforesaid being defrayed, the overplus shall be disposed of and appropriated towards making good and discharging any deficiency or deficiencies which have already accrued or may hereafter accrue

upon any or either of the acts of assembly of this province heretofore enacted for granting money to the King's use.

Passed May 30, 1764. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed March 5, 1725-26; and (the two acts of) September 20, 1766, Chapters 542 and 547; March 21, 1772, Chapter 661; January 22, 1774, Chapter 692

### CHAPTER DXIV.

AN ACT FOR REGULATING THE OFFICERS AND SOLDIERS IN THE PAY OF THIS PROVINCE AND FOR CONTINUING AN ACT, ENTITLED "AN ACT FOR REGULATING THE HIRE OF CARRIAGES TO BE EMPLOYED IN HIS MAJESTY'S SERVICE." 1

Whereas many barbarous hostilities have lately been perfidiously committed by the Indians on the western and northern frontiers of this province, and it is judged necessary that a body of forces should be taken into the pay of this province, to be employed in His Majesty's service and in protecting the frontier inhabitants of the said province. And whereas no man can be forejudged of life or limb or subjected in time of peace to any kind of punishment within this province by martial law or in any other manner than by the judgment of his peers and according to the known and established laws of this province, yet nevertheless it being requisite for the retaining such forces in their duty that an exact discipline be observed and that offenders be brought to a more exemplary and speedy punish ment than the usual forms of the law will allow.

[Section I.] Be it therefore enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the

<sup>1</sup> Passed July 8, 1763, Chapter 500.

said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act, if any person who is or shall be hereafter during the continuance of this act mustered or in the pay of this province as an officer, or who is or shall be hereafter during the continuance of this act listed, voluntarily entered or in the pay of this province as a soldier, shall, at any time during such continuance of this act, begin, excite, cause or join in any mutiny or sedition in the company, troop or regiment [whereto he doth belong or in any other company, troop or regiment] in His Majesty's service, or shall not use his utmost endeavors to suppress the same, or coming to the knowledge of any mutiny or intended mutiny shall not without delay give information thereof to his commanding officer, or shall desert His Majesty's service, or being a soldier actually listed in any regiment, troop or company shall list himself in any other regiment, troop or company without a discharge produced in writing from the colonel or, in his absence, the field officer commanding in chief the regiment, troop or company in which he last served as a listed soldier, or shall be found sleeping upon his post or shall leave it before relieved, or if any officer or soldier of the said forces shall hold correspondence with any of the said Indians who have been concerned in the hostilities lately committed or that shall hereafter be committed within this province or with any person who has assisted or shall hereafter assist the said Indians in committing such hostilities, or give them advice or intelligence, either by letters, messages, signs or tokens in any manner or way whatsoever, or shall treat with such Indians or persons or enter into any condition with them without His Majesty's license or license of the general, lieutenant-general or chief commander, or shall strike or use any violence against his superior officer being in the execution of his office, or shall disobey any lawful command of his superior officer; all and every person and persons so offending in any of the matters before mentioned shall suffer death or such other punishment as by a court-martial shall be inflicted.

[Section II.] And be it further enacted by the authority aforesaid, That the governor or commander in chief of this province

for the time being may from time to time grant a commission under the great seal to any officers not under the degree of a field officer for the holding a general court-martial within this province, in which courts-martial all the offenses in this act specified shall be tried and proceeded against in such manner as [in] this act [is] hereafter directed.

[Section III.] And be it also further enacted, That it shall and may be lawful to and for such courts-martial by their sentence or judgment to inflict corporal punishment not extending to life or limb on any soldier for immoralities, misbehavior or neglect of duty.

[Section IV.] And it is hereby further enacted and declared, That no general court-martial which shall have power to sit by virtue of this act shall consist of a less number than thirteen, whereof none to be under the degree of a commission officer, and the president of such general court-martial shall neither be the commander in chief or governor of the garrison where the offender shall be tried nor under the degree of a field officer unless where a field officer cannot be had, in which case the officer next in seniority to the commander, not being under the degree of a captain, shall preside at such court-martial, and that such court-martial shall have power and authority and are hereby required to administer an oath to every witness in order to the examination or trial of any of the offenses that shall come before them.

Provided always, That in all trials of offenders by general courts-martial to be held by virtue of this act, every officer present at such trial, before any proceedings be had thereupon, shall take the following oaths upon the Holy Evangelists before the court and judge advocate, or the person officiating as such (who are hereby authorized to administer the same), in these words, That is to say:

"You shall well and truly try and determine, according to your evidence in the matter now before you, between our sovereign Lord the King's Majesty and the prisoner to be tried. So help you God."

"I, A. B., do swear that I will duly administer justice according to an act of the general assembly of this province, now in force, entitled 'An act for regulating the officers and soldiers

in the pay of this province and for continuing an act, entitled 'An act for regulating the hire of carriages to be employed in His Majesty's service," without partiality, favor or affection, and if any doubt shall arise which is not explained by the said act, according to my conscience, the best of my understanding and the custom of war in the like cases. And I further swear that I will not divulge the sentence of the court until it shall be approved by His Majesty, the general or commander in chief of this province, neither will I, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial unless required to give evidence thereof as a witness by a court of justice in a due course of law. So help me God."

And so soon as the said oaths shall have been administered to the respective members, the president of the court is hereby required and authorized to administer to the judge advocate or the person officiating as such an oath in the following words:

"I, A. B., do swear that I will not upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial unless required to give evidence thereof as a witness [by a court of justice] in a due course of law. So help me God."

And no sentence of death shall be given against any offender in such case by any general court-martial unless nine officers present shall concur therein; and if there be more officers [present] than thirteen, then the judgment shall pass by the concurrence of two-thirds of the officers present. And no proceeding or trial shall be had upon any offense but between the hours of eight of the clock in the morning and three in the afternoon, except in cases which require an immediate example.

Provided always, That the party tried by any such courtmartial shall be entitled to a copy of the sentence and proceedings of the said court upon demand thereof made by himself or any other person or persons in his behalf (he or they paying reasonably for the same) at any time not sooner than three months after such sentence.

Provided also, That every person presiding at any trial whereupon sentence of death shall be given against any officer or soldier by virtue of this act shall transmit, as soon as conveniently may be, to the governor or commander in chief of this province for the time being a fair transcript of the proceedings and sentence of such court-martial, under the hands and seals of the officers who composed the said court; and that the execution of the sentence so given shall be suspended until the pleasure of the governor or commander in chief of this province for the time being be known and his warrant for the same under the great seal shall be received.

[Section V.] Provided always, and be it further declared and enacted, That no officer or soldier, being acquitted or convicted of any offense, be liable to be tried a second time by the same or any other court-martial for the same offense unless in the case of an appeal from a regimental to a general court-martial, and that no sentence given by any court-martial and signed by the president thereof be liable to be revised more than once.

Provided always, That nothing in this act contained shall extend or be construed to exempt any officer or soldier whatso-ever from being proceeded against by the ordinary course of law.

[Section VI.] And be it further enacted by the authority aforesaid, That this act shall be and continue in force until the thirtieth day of May, one thousand seven hundred and sixty-five.

[Section VII.] And be it further enacted by the authority aforesaid, That an act, entitled "An act for regulating the hire of carriages to be employed in His Majesty's service," now near expiring, be and the same is hereby continued and to remain in force until the thirtieth day of May next and from thence to the end of the next session of assembly and no longer.

Passed May 30, 1764. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII.

As to Sections I-VI, see the Act of Assembly passed March 17, 1777, Chapter 750.

As to Section VII, see the Act of Assembly passed January 2, 1778, Chapter 780.

<sup>1</sup> Passed July 8, 1763, Chapter 500.

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A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT FOR THE ERECTING A LIGHT-HOUSE AT THE MOUTH OF THE BAY OF DELAWARE, AT OR NEAR CAPE HENLOPEN, FOR PLACING AND FIXING BUOYS IN THE SAID BAY AND RIVER DELAWARE, AND FOR APPOINTING COMMISSIONERS TO RECEIVE, COLLECT AND RECOVER CERTAIN SUMS OF MONEY HERETOFORE RAISED BY WAY OF LOTTERY AND TO APPROPRIATE THE SAME TO THE PURPOSES AFORESAID." 1

Whereas the erecting a light-house at the mouth of the bay of Delaware and placing and fixing buoys in the said bay and river Delaware will greatly contribute to the ease and security of the navigation thereof and the advantage of the trade of this province.

And whereas the commissioners appointed by the act to which this act is a supplement have represented that the sum of money heretofore raised by way of lottery for the purposes aforesaid will be greatly deficient in effectuating and carrying into execution the purposes aforesaid, and have requested the aid of the legislature to enable them to perfect and carry into execution so expedient and salutary a design:

[Section I.] Wherefore be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That it shall and may be lawful for any person or persons, bodies politic or corporate to advance and lend to the said commissioners any sum or sums of money not exceeding in the whole the sum of five thousand pounds lawful money of Pennsylvania, which said sum of five thousand [pounds], or so much thereof as they shall find necessary, the said commission-

<sup>1</sup> Passed September 30, 1763, Chapter 502.

ers are hereby authorized and empowered to borrow and receive for the uses, intents and purposes hereafter mentioned. the said lenders shall have and receive for the use and forbearance of their respective loans until the same shall be paid off and discharged, interest not exceeding six per centum per annum; and that every such lender shall have and receive a note or certificate in writing of and for the sum lent with the interest thereof, signed by the said commissioners, which note and certificate shall be registered in a book by them to be kept for that purpose; and that the said lenders shall be paid by the said commissioners yearly and every year the interest moneys arising on their respective loans, together with a proportionable part of the principal sum so lent out of the moneys arising by the duty of tonnage from time to time in virtue of this act, until the whole principal sum or sums so borrowed, together with the interest thereof, shall be paid off and discharged.

[Section II.] And be it further enacted by the authority aforesaid, That all and every person and persons, bodies politic and corporate, to whom any money shall be due for loan by virtue of this act after the note or certificate shall be entered in the book of registry as aforesaid, his, her or their executors, administrators, successors or assigns, by proper words of assignment to be indorsed on his, her or their certificate may assign, transfer and make over all his, her or their right, title or interest of, in or to such note or certificate to any other person or persons, bodies politic or corporate, whatsoever, which assignment shall entitle such assignee or assignees, his, her or their executors, administrators, successors or assigns, to the benefit thereof and payment thereon; and such assignee may, in like manner, again assign and so totics quoties, and afterwards it shall not be in the power of such assignors who have made such assignment to make void, release or discharge the same or the moneys thereby due.

[Section III.] And be it further enacted by the authority aforesaid, That the said commissioners shall apply, appropriate and dispose of all and every the sum and sums of money borrowed as aforesaid for and towards the uses, intents and purposes mentioned and specified in the said act of general assembly to which this act is a supplement and to and for the maintenance

and support of the light-house and buoys aforesaid, and to no other use or purpose whatsoever, and shall account for the same yearly on or before the first day of September in every year, to and with the committees of assembly annually appointed for the settlement of the public accounts, to be by them laid before the assembly for their inspection and approbation.

- And in order to assure and secure to the said lenders their respective sums of money so lent and advanced, with the interest thereon accruing:

[Section IV.] Be it enacted by the authority aforesaid, That from and after the first day of November, in the year of our Lord one thousand seven hundred and sixty-five, there shall be laid, raised, collected and paid a duty of tonnage upon all ships and other vessels coming into or going out of this province (shallops and other small vessels trading within the river and bay of Delaware and along the coast as far as Sandy Hook to the eastward and as far as Indian River, to the southward, only excepted. That is to say, for every ton of the burden or contents of any of the said ships or vessels, the sum of six pence per ton, to be accounted, taken and paid according to the measure of every such ship or vessel, which shall be made and taken by the collector of the said duty of tonnage in the port or place where they shall arrive, enter or clear; and the master or owner of every such vessel shall, within forty-eight hours after the arrival of any such ship or vessel at the ports or places of their discharge or unloading in this province, cause or procure such ships or vessels to be entered in the said collector's office appointed by this act for collecting the said duties of tonnage, and at the time of such entry and before he or they presume to break bulk or unload shall either immediately pay to the said collector the sums of money due and payable for the tonnage of all such ships or vessels or otherwise shall give good and sufficient security by bond to the said collector, to be approved of by him, to pay the said duty of tonnage to the said collector or his successor for the uses aforesaid within the space of six weeks after the arrival of such ship or vessel.

[Section V.] And be it further enacted by the authority aforesaid, That the masters of all ships and vessels in any port

of this province from and after the first day of November in the year one thousand seven hundred and sixty-five and of all ships or vessels built in this province after the time aforesaid during the continuance of this act, before they clear out at the office of the collector of the King's customs, shall pay or otherwise sufficiently secure to the officer aforesaid the duties and sums of money which shall be due for tonnage imposed by virtue of this act.

[Section VI.] And be it further enacted by the authority aforesaid, That if any officer belonging to His Majesty's customs within this province shall clear any vessel liable by this act to the said duty of tonnage before it shall appear to such officer by a certificate or receipt, under the hand of the collector hereby appointed to receive the said duty, that the same is paid and discharged or otherwise secured to be paid for such ship or vessel, every such officer of His Majesty's customs so clearing such ship or vessel without such certificate or receipt [as] aforesaid shall forfeit and pay the sum of ten pounds for every such offense, to be recovered and applied to the purposes mentioned in the said act to which this act is a supplement.

[Section VII.] And be it further enacted by the authority aforesaid. That for preventing disputes concerning the contents of vessels hereby made liable to the said duty of tonnage, the said tonnage shall be measured and computed in manner follow, That is to say, every single-decked ship or vessel shall be measured by the length of the keel and the breadth of the beam, taken within board by the midship beam from plank to plank, and the depth of the hold from the ceiling plank next the kelson to the under part of the deck plank, then multiply the length by the breadth and the product thereof by the depth and divide the whole by ninety-five; the quotient shall give the contents of the tonnage of such single-decked vessel. And in order to find the length of the keel, measure the gun-deck from the fore part of the stern-post to the fore part of the stem, from which deduct three-fifths of the beam for the rake forward and four inches out of the length of each foot of the stern-post as high as the gun-deck for the rake abaft; the remainder shall be the length of the keel. And every two-decked ship which carries goods between decks shall be measured in the manner

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hereinafter directed, That is to say, the breadth to be taken within board by the midship beam from plank to plank, multiplied by the length of the keel, to be measured as hereinbefore directed, and the product thereof, multiplied by one-half of the breadth on the midship beam as aforesaid, the whole divided by ninety-five; the quotient shall be and is hereby declared to be the contents of the tonnage of every such two-decked ship or vessel, according to which method and rules all ships and vessels shall be measured and the several duties of tonnage thereby computed and collected accordingly, any law, usage or custom to the contrary notwithstanding.

[Section VIII.] And be it further enacted by the authority aforesaid, That Thomas Coombe shall be and is hereby appointed collector of the duties and sums of money due and payable for the tonnage of all ships and vessels chargeable by this act and receiver of the fines and penalties imposed by this act, and is hereby authorized and empowered from time to time to measure all vessels and take the bonds required to be given as aforesaid, and to appoint, constitute and make deputies, as many as shall be necessary for the effectual execution of this act.

[Section IX.] Provided always and be it further enacted by the authority aforesaid, That if the said collector or any other person or persons shall be sued or prosecuted for anything done in pursuance of this act, he or they so sued or prosecuted may plead the general issue and give this act and the special matter in evidence for their justification, and if, upon trial thereof, a verdict shall be given against the plaintiff or he shall become nonsuit or suffer a discontinuance, the defendant or defendants in such action shall recover treble damages, with full costs of suit.

Provided also, That no collector or other officer shall be sued for anything done in pursuance of this act unless such suit be commenced within twelve months next after the pretended or supposed injury shall be done or committed.

[Section X.] And be it further enacted by the authority aforesaid, That the said collector shall keep fair and true accounts in writing of all his transactions relating to the premises and the duty of his office, which he shall from time to time submit to

the view and inspection of the commissioners aforesaid and lay the same before the assembly of this province when thereunto required. And the said collector shall, once in six weeks or oftener if required, during the continuance of this act, pay to the provincial treasurer for the time being all such sums of money which he shall receive by virtue of this act (subject to the drafts of the said commissioners, or a majority of them, for the purposes last aforesaid), deducting first thereout for his trouble in executing the duties hereby enjoined six per centum for measuring, receiving and paying as aforesaid.

And the receipt or receipts of the said treasurer shall be a good and sufficient discharge to the said collector for so much of the duties of tonnage as shall be therein expressed and specified. [And the said provincial treasurer shall have and receive, for his trouble in receiving and paying the moneys coming to his hands by virtue of this act, the sum of ten shillings for every hundred pounds, and no more.]

[Section XI.] Provided always, and be it further enacted by the authority aforesaid. That the said collector, before he enters upon the execution of his office, shall take an oath or affirmation before some justice of the peace of the county of Philadelphia, who is hereby empowered to administer the same, and shall also become bound with one or more sufficient sureties (to be approved of by the said commissioners) to the governor or commander in chief of this province for the time being, conditioned for the true and faithful execution of his said office. And in case of the death or removal of the said collector, the commissioners aforesaid, or a majority of them or of the survivors of them, shall appoint another to supply his place from time to time until one shall be appointed by act of assembly, who shall take the oath and give the like security as is directed to be taken by the collector appointed by this act, and shall have the same power and authority as the said Thomas Coombe hath or ought to have, and shall execute, do and perform all the duties, matters and things hereby enjoined and required.

[Section XII.] And be it further enacted by the authority aforesaid, That the commissioners aforesaid, or a majority of them, shall from time to time nominate and appoint one or

more careful and reputable persons to be the keeper of the said light-house, who shall carefully and diligenty attend his duty in kindling and keeping burning the lights from sun-setting to the rising thereof and at such other times as the said commissioners shall order and direct and in placing the said lights so as they may be best seen by [persons on board] vessels coming in or going out of the said bay of Delaware; and in case such keeper shall neglect his duty in any part of the premises he shall forfeit and pay any sum of money according to the degree of his offense, not exceeding the sum of two hundred and fifty pounds.

Provided always, That the said keeper, before he enters upon the duty of his said office or takes charge of the said light-house, shall give one or more good and sufficient sureties residing in this province to the governor or commander in chief for the time being for the true and faithful performance and discharge of his duty.

[Section XIII.] And be it further enacted by the authority aforesaid, That the fines and penalties hereby inflicted and imposed shall be recovered by and in the name of the collector appointed by virtue of this act, by bill, plaint or information, in any court of record within this province, wherein no essoin, protection or wager of law nor [any] more than one imparlance shall be allowed, one moiety thereof to the said collector and the other moiety to the provincial treasurer, to be applied by the commissioners aforesaid to the same uses, intents and purposes to which the moneys borrowed as aforesaid are directed to be applied and appropriated.

[Section XIV.] And be it further enacted by the authority aforesaid, That this act shall be and continue in force for and during the space of eight years from and after the passing thereof and from thence to the end of the next sitting of assembly, unless it shall so happen that the said duties of tonnage so to be collected shall not in that time be sufficient to pay [off] and discharge the several sums of money so as aforesaid directed to be borrowed for the purposes aforesaid, together with the interest thereof, in that case this act shall continue in force until the said duties shall be sufficient for that purpose; and in

case a greater sum of money shall be raised within the time aforesaid more than sufficient for the purposes aforesaid, then and in such case the surplus aforesaid shall be applied for and towards the supporting, maintaining and keeping in repair and use the said light-house and buoys aforesaid in the best manner, so as to be of the most advantage to trade and navigation.

Passed September 22, 1764. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed September 30, 1763, Chapter 502; and the Act of Assembly passed October 19, 1771, Chapter 640.

## CHAPTER DXVI.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT FOR GRANTING TO HIS MAJESTY THE SUM OF TWENTY-FOUR THOUSAND POUNDS FOR THE DEFENSE AND PROTECTION OF THIS PROVINCE AND FOR OTHER PURPOSES THEREIN MENTIONED." 1

Whereas by an act of assembly passed in the third year of His Majesty's reign, entitled "An act for granting to His Majesty the sum of twenty-four thousand pounds for the defense and protection of this province and for other purposes therein mentioned," the commissioners for Indian affairs are enjoined and required, with all convenient speed and at farthest within the space of eighteen months from the publication of the said act, to sell, dispose of and convert into money all and every part of the goods, wares and merchandise in their hands, custody or power, by them purchased with tertain moneys borrowed by virtue of another act of general assembly of this province from the trus-



<sup>1</sup> Passed October 22, 1763, Chapter 505.

<sup>&</sup>lt;sup>2</sup> Passed October 22, 1763, Chapter 505.

tees of the general loan office or otherwise howsoever in their possession as commissioners for Indian affairs. And that the said commissioners should, with all convenient speed and at farthest within the space of eighteen months from the publication of the said act, pay into the hands of the provincial treasurer all such moneys as should arise from the sale of the said goods, wares and merchandise, together with all such other money as should be in their hands belonging to the said Indian trade by any ways or means whatsoever, upon a full and final settlement of their accounts, which the said commissioners were required to render and settle with the committees of assembly annually appointed for the adjustment of the public accounts. But inasmuch as there is yet remaining at Fort Pitt a large quantity of the said goods which probably cannot be sold and converted into money within the time limited by the said act without great less to the province, and the late overtures of peace with the Indians affording a prospect of much greater advantage in the sales thereof if the limitation for such sales and final settlement of the said commissioners' accounts be extended to a more distant day:

[Section I.] Therefore be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said commissioners for Indian affairs shall have full power and authority and they are hereby required to exercise their best discretion in selling, disposing of and converting into money all such goods, wares and merchandise now or at the publication of this act remaining in their hands, custody or power as commissioners for Indian affairs, to the greatest advantage and benefit of this province, so that such sales be completed, the accounts thereof settled and all the moneys arising therefrom paid into the hands of the said provincial treasurer on or before the first day of September, which

will be in the year one thousand seven hundred and sixty-five, as the same shall come into their hands, anything in the said act of assembly to the contrary thereof in any wise notwithstanding.

Passed September 22, 1764. Referred for consideration by the King in Council, February 10, 1766, but apparently never acted upon, having expired before that date. See Appendix XXIV, Section VIII, and the notes to the Acts of Assembly passed March 5, 1725-26, Chapter 289; October 22, 1763, Chapter 505.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1764, and continued by adjournments until the twentieth day of September, 1765, the following acts were passed:

## CHAPTER DXVII.

AN ACT FOR RAISING BY WAY OF LOTTERY THE SUM OF THREE THOUSAND AND THREE POUNDS, FIFTEEN SHILLINGS, TO BE APPLIED TO THE PAYMENT OF THE ARREARS OF DEBT DUE FOR THE FINISHING ST. PETER'S AND ST. PAUL'S EPISCOPAL CHURCHES, IN THE CITY OF PHILADELPHIA, AND TOWARDS FINISHING THE EPISCOPAL CHURCH AT CARLISLE AND THE BUILDING OF AN EPISCOPAL CHURCH IN EACH OF THE TOWNS OF YORK AND READING, AND REPAIRING THE EPISCOPAL CHURCH AT MOLATTIN, IN BERKS COUNTY, AND THE EPISCOPAL CHURCH IN [HUNTINGDON] TOWNSHIP, IN YORK COUNTY, AND FOR REPAIRING THE EPISCOPAL CHURCHES AT CHICHESTER AND CONCORD, AND PURCHASING A GLEBE FOR THE CHURCH AT CHESTER, IN THE COUNTY OF CHESTER.

Whereas it hath been represented to the assembly of this province by the church-wardens and vestrymen of the united congregations of Christ's Church and St. Peter's and by the trustees of St. Paul's Church, lately built in the city of Philadelphia, that notwithstanding the generous subscriptions heretofore made by the members of the said churches towards raising a sum of money for the erecting and finishing thereof, there yet remains due upon the former the heavy debt of near fifteen hundred pounds and from the latter near the sum of five hundred pounds more than they have been able to procure for the completing their commendable and religious designs.

And whereas is has been also represented to the assembly aforesaid that there is a further sum of two hundred pounds necessary to enable the church-wardens and vestrymen of the Episcopal church lately in part erected in the town of Carlisle,

to finish and complete the same, the further sum of three hundred and fifteen pounds towards erecting an Episcopal church in the town of York and repairing the Episcopal church in [Huntingdon] township, in York county, and the further sum of three hundred and seventy-five pounds towards building an Episcopal church, in the town of Reading, and repairing the Episcopal church at Molattin, in Berks county, which is united under the same missionary with Reading, and the further sum of one hundred pounds towards purchasing a glebe for the church in the borough of Chester, and the further sum of one nundred pounds towards enlarging the Episcopal church at Chichester, and the further sum of one hundred and three pounds fifteen shillings toward enlarging and repairing the Episcopal church at Concord, in the county of Chester, more than the members of the respective churches aforesaid have been able to obtain from subscriptions among themselves for the good purposes aforesaid, we, the representatives of the freemen of the province of Pennsylvania, being desirous of aiding and encouraging such charitable and pious designs, do pray that it may be enacted:

[Section I.] And be it enacted by the Honorable John Penn. Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That Henry Harrison and Jacob Duchee, Esquires, Charles Stedman, Thomas Gordon, Joseph Sims and Edward Duffield, John Ord and John Knowles, gentlemen, shall be and they are hereby nominated and appointed managers and directors of the lottery hereby instituted and directed to be drawn for the preparing and disposing of tickets and to oversee the drawing of the lots and to order and perform all such other matters and things as are hereinafter directed and appointed by such managers and directors to be done and performed, and that the said managers, or a major part of them, shall meet together at some convenient place by them to be appointed for the execution of the powers

and trust reposed in them by this act, and shall cause proper books to be prepared in which each leaf shall be divided and distinguished into three columns, and upon the innermost or first of the said three columns there shall be printed thirteen thousand three hundred tickets, numbered one, two, three and so onwards in an arithmetical progression, where the common excess is to be one until they raise to and for the number of thirteen thousand three hundred and fifty, and upon the middle column in every of the said books there shall be printed thirteen thousand three hundred and fifty tickets of the same breadth and form and numbered in like manner, and in the extreme column of the said books there shall be printed a third rank or series of tickets of the same number with those of the other two columns, which tickets shall be joined with oblique lines or devices in such manner as the said managers shall direct, and that every of the said tickets shall have written or printed thereupon (besides the number of such ticket and the year of our Lord Christ) the words following, viz.:

"This ticket entitles the bearer to such prize as may be drawn against its number if demanded in nine months after the drawing is finished, subject to such deduction as is mentioned in the scheme."

[Section II.] And be it further enacted by the authority aforesaid, That the said managers shall have full power and authority to sell and dispose of to such person or persons as shall choose to adventure in the said lottery the said tickets of the extreme column aforesaid at the rate of thirty shillings for each ticket, and upon the receipt of the said sum of thirty shillings shall deliver to such adventurer or adventurers one of the tickets so sold, signed by one of the said managers and cut out of the said books through the said oblique lines and devices indentwise, to be kept and used by him, her or them for the better ascertaining and securing his, her or their interest in the said ticket in case it should be fortunate.

[Section III.] And be it further enacted by the authority aforesaid, That the said managers shall nominate and appoint one reputable person to be the treasurer or receiver of the moneys arising from the sale of the said tickets, taking from the said treasurer or receiver such security for the due answering

and paying of the moneys which he shall receive in pursuance of the directions of this act and for the true performance of the trust in him reposed as the said managers, or any three of them, shall judge reasonable and sufficient in that behalf, to which said treasurer the said managers shall from time to time pay over the several sums of money they shall respectively receive for the tickets by them sold as aforesaid, to remain in his hands for the payment of such adventurers in the said lottery as shall prove fortunate and other the purposes hereinafter mentioned and appointed, for which said sums of money they, the said managers, respectively shall take a receipt signed by the said treasurer.

[Section IV.] And be it further enacted by the authority aforesaid, That after all the said tickets of the third or extreme column shall be sold as aforesaid, the said managers, or any three of them, shall cause all the tickets of the middle column in the said books to be carefully rolled [up] and made fast with thread or silk, the same being cut out of the said books indentwise through the said oblique lines or devices, and shall cause them to be put into a box to be prepared for that purpose, marked with the letter A, and to be immediately after sealed with the several seals of the said managers, until the said tickets are to be drawn as is hereinafter mentioned, and that the tickets of the first or innermost columns of the said books shall remain still in the books for discovering any mistake or fraud, if such should happen to be committed contrary to the true meaning of this act.

[Section V.] And be it further enacted by the authority aforesaid, That the said managers, or any three of them, shall also prepare, or cause to be prepared, other books, in which every leaf shall be divided and distinguished into two columns and upon the innermost of those two columns there shall be printed thirteen thousand three hundred and fifty tickets, and upon the outermost of the said two columns there shall be printed the like number of tickets, all which shall be of equal length and breadth as near as may be, which two columns of the said books shall be joined with some oblique lines and devices as aforesaid, and that four thousand eight hundred and twenty-one tickets, part of

those to be contained in the outermost columns of the books last mentioned, shall be called the fortunate tickets, and the said managers, or any three of them, shall cause the said fortunate tickets to be written upon or otherwise expressed, as well in figures as in words at length, in manner following, That is to say, upon one of them seven hundred and fifty pounds, upon one other of them three hundred and seventy-five pounds, upon four of them severally one hundred and eighty-seven pounds ten shillings, upon four others of them severally ninetythree pounds fifteen shillings, upon five of them severally seventy-five pounds, upon sixteen of them severally fifty-six pounds five shillings, upon thirty of them severally thirty-seven pounds ten shillings, upon thirty others of them severally twenty-eight pounds two shillings and six pence, upon forty of them severally eighteen pounds fifteen shillings, upon seventy of them severally eleven pounds two shillings, upon two hundred of them severally seven pounds ten shillings, upon one hundred and forty of them severally five pounds twelve shillings and six pence. upon two hundred of them severally three pounds fifteen shillings, upon one thousand of them severally three pounds, and upon three thousand and eighty of them severally two pounds five shillings, which principal sums so to be expressed upon the said fortunate tickets, together with thirteen pounds two shillings and six pence to be allowed to the owner of the first drawn ticket, and the like sum of thirteen pounds two shillings and six pence to be allowed to the last drawn ticket, will amount in the whole to twenty thousand and twenty-five pounds, out of which of each and every of the said fortunate tickets, or the sums thereon expressed, the said managers are hereby authorized and required to deduct fifteen per centum and no more, amounting in the whole to three thousand and three pounds fifteen shillings, the sum intended for the uses and purposes in this act hereafter mentioned and specified.

[Section VI.] And be it further enacted by the authority aforesaid, That the said managers, or any three of them, shall cause all the said tickets contained in the outermost column of the last-mentioned books to be carefully rolled up and fastened with thread or silk, and carefully cut out indentwise through the

said oblique lines or devices, and put into another box to be prepared for that purpose and marked with the letter B, and sealed up and carefully kept by them until those tickets shall also be drawn in the manner and form hereinafter mentioned.

[Section VII.] And be it further enacted by the authority aforesaid, That the said managers, or any three of them, shall cause the said boxes, with all the tickets therein, to be carried to some public and convenient room by nine of the clock in the forenoon and placed on the table there for that purpose and shall then and there severally attend this service and cause the two boxes containing the said tickets to be unsealed and opened, and the tickets or lots in the said boxes being in the presence of the said managers and such of the adventurers as shall think proper to be there, well shaken and mingled in each box distinctly, some one indifferent and fit person to be appointed and directed by the said managers, or any three of them, shall take out and draw one ticket from the box where the said numbered tickets shall be as aforesaid put and one other indifferent and fit person to be appointed and directed in like manner shall presently take out a ticket or lot from the box where the said four thousand eight hundred and twenty-one fortunate and the eight thousand five hundred and twenty-nine blank tickets shall be promiscuously put as aforesaid, and immediately both the tickets so drawn shall be opened and the number as well of the fortunate as of the blank ticket shall be named aloud, and if the ticket taken or drawn from the box containing the fortunate and blank lots shall appear to be a blank, then the numbered ticket so drawn with the said blank at the same time drawn shall both be put on one file, and if the ticket so drawn or taken from the box containing the fortunate and blank lots shall appear to be one of the fortunate tickets, then the principal sum written upon such fortunate ticket, whatever it be, shall be entered by a clerk which the said managers, or any three of them, shall employ and oversee for this purpose into a book to be kept for entering the numbers drawn with the said fortunate ticket and the principal sums whereunto they shall be entitled respectively, and two of the said managers shall set their names as witnesses to such entries, and the said fortunate and numbered tickets so



drawn together shall be put upon another file, and so the drawing shall continue by taking one ticket at a time out of each box, and with opening, naming aloud and filing the same, and by entering the fortunate lots in such method as is before mentioned until the whole number of four thousand eight hundred and twenty-one fortunate tickets and one more for the last drawn as aforesaid shall be completely drawn; and if the same cannot be performed in one day, the said managers shall cause the said boxes to be sealed up in manner aforesaid and adjourn to the next day, and so from day to day (Sundays excepted), and then open the same and proceed as before till the drawing of the tickets be finished and completed as aforesaid, and afterwards the said numbered tickets so drawn with the fortunate tickets drawn against the same shall be and remain in a strong box, sealed up as aforesaid, and under the custody of the said managers until they shall take them out to examine, adjust and settle the property thereof and make the deduction of fifteen per centum aforesaid.

And to the end that the fortunate may know their success in the said lottery:

[Section VIII.] Be it enacted by the authority aforesaid, That as soon as the drawing is over the said managers are hereby enjoined and required to cause to be printed and published in the Pennsylvania Gazette the number of the tickets drawn against each fortunate ticket and the principal sum written on the same, and if any dispute shall arise in adjusting the property of any of the said fortunate tickets, the said managers, or the major part of them, shall determine to whom it doth and ought to belong, and shall also make the deductions aforesaid out of each of the said fortunate tickets for the raising the moneys aforesaid, and when this is done shall draw an order on the treasurer aforesaid for the payment of the neat sum due on the said tickets respectively, which order the said treasurer is hereby enjoined and required to pay and discharge.

[Section IX.] Provided always and be it further enacted by the authority aforesaid. That before any of the said managers or directors shall take upon himself the duties and office hereby enjoined, they shall respectively before some justice of the peace for the county of Philadelphia, take the following oath:

"I, A. B., do swear that I will faithfully execute the trust reposed in me, and that I will not use any indirect art or means or permit or direct any person to use any indirect art or means to obtain a prize or fortunate ticket or lot for myself or any other person whatsoever, and that I will do my utmost endeavor to prevent any undue or sinister practice to be done by any person whatsoever, and that I will, to the best of my judgment, declare to whom any prize, lot or ticket of right does belong, according to the true intent and meaning of the act of assembly passed in the fifth year of His present Majesty's reign."

[Section X.] And be it further enacted by the authority aforesaid, That if any of the fortunate adventurers in the said lottery shall neglect to apply to the said managers for the order on the treasurer aforesaid for the sum due on his, her or their tickets respectively within the space of nine months after the public notice given as aforesaid in the Gazette aforesaid, the sum or sums of money due to him, her or them shall be applied to the uses, intents and purposes to which the sum hereby directed to be deducted is directed to be appropriated and applied.

[Section XI.] And be it further enacted by the authority aforesaid. That after the payment of the neat sums due to the fortunate adventurers in the said lottery and defraying the costs and expenses attending the execution of this act, the sum of money remaining in the hands of the treasurer aforesaid shall be appropriated and applied for and towards discharging the arrears of debt due for the erecting and finishing the church called St. Peter's church, inclosing the burying ground thereto belonging and purchasing an additional lot to the said burying ground, and for and towards the payment of the arrears of debt due for the finishing the church called St. Paul's church, both of them situate in the city of Philadelphia; and for and towards finishing the Episcopal church at Carlisle, for and towards erecting the two several Episcopal churches in the towns of York and Reading, and repairing the Episcopal churches at Molattin and [Huntingdon], in York county, and for and towards the purchasing a glebe for the church in the borough of Chester, and for and towards enlarging the Episcopal church at Chichester, and for and towards enlarging and repairing the Episcopal church at Concord, and to no other uses or



purposes whatsoever, That is to say, the sum of thirteen hundred and twenty-five pounds, part thereof, to and for the use of St. Peter's church, in the city of Philadelphia; four hundred and twenty-five pounds more thereof to and for the use of St. Paul's church in the said city; two hundred pounds more thereof for the finishing the Episcopal church at Carlisle; three hundred and fifteen pounds more thereof to and for the building an Episcopal church in the town of York; sixty pounds more thereof to and for the repairing the Episcopal church in the township of [Huntingdon,] in York county; three hundred and fifteen pounds more thereof to and for the building an Episcopal church in the town of Reading; sixty pounds more thereof to and for the repairing the Episcopal church at Molattin, in the county of Berks; one hundred pounds more thereof to and for the use of repairing the Episcopal church and purchasing a glebe for the same in the borough of Chester; one hundred pounds more thereof to and for the use of enlarging the Episcopal church at Chichester and one hundred and three pounds fifteen shillings, the residue thereof, to and for the use of repairing the Episcopal church at Concord aforesaid, all within the Province of Pennsylvania, which sums shall be paid by the treasurer aforesaid to the several church-wardens and vestrymen of the said congregations and churches or intended churches respectively, and to the trustees of St. Paul's, whose respective receipts shall be a discharge for the sum by them received respectively.

Provided always, That the church-wardens, vestrymen and trustees aforesaid shall, before they receive any of the said respective sums give bond to the said managers with such security as they shall approve of for the applying and expending the sums of money they shall respectively receive to the several uses and purposes for which the same are given and directed by this act and no other.

Provided also, That if there should be any deficiency in raising the said sum of three thousand and three pounds fifteen shillings by a loss in the sale of the tickets or otherwise, the said church-wardens, vestrymen and trustees aforesaid shall be entitled to and receive no more of the said treasurer than a sum ratably proportionate to the said several and respective

sums before mentioned, or in case of any gain or profits arising by the lottery aforesaid for any tickets remaining unsold and therefore taken and retained on account of the several churches aforesaid, or for prizes not demanded within nine months as aforesaid, the same gains and profits shall be ratably and proportionably divided among the several churches aforesaid, to be ascertained, adjusted and settled by the said managers, or any three of them.

[Section XII.] And be it further enacted by the authority aforesaid, That the said managers shall lay their accounts of money received for the tickets aforesaid directed by them to be sold and of the moneys paid by them to the treasurer aforesaid, and the said treasurer shall lay his accounts of the moneys received by him of the said managers and paid to the said church-wardens, vestrymen and trustees respectively, and the said church-wardens and trustees respectively shall lay their accounts of the moneys respectively received of the treasurer and disbursed by them to and for the purposes hereinbefore mentioned before the committee of assembly for the time being appointed for the settlement of the public accounts, to be by them examined, adjusted and laid before the assembly then sitting.

Provided always, That the said lottery be erected and drawn within twelve months from the publication hereof.

[Section XIII.] And be it further enacted by the authority aforesaid, That the said treasurer shall and may from time to time, as occasion may happen, bring actions in his own name against any person or persons indebted to the managers aforesaid, or either [of] them, for sale of tickets, or against any other persons co[ncerned] in the execution of this act for any breach of tr[ust therein].

Passed February 15, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VII, and the Acts of Assembly passed February 8, 1766, Chapter 538; September 20, 1766, Chapter 545.

#### CHAPTER DXVIII.

A SUPPLEMENT TO AN ACT, ENTITLED "AN ACT FOR THE RELIEF OF INSOLVENT DEBTORS WITHIN THE PROVINCE OF PENNSYLVANIA." 1

Whereas by virtue of an act of general assembly, entitled "An act for the relief of insolvent debtors within the province of Pennsylvania," any person charged in execution for any sum or sums of money not exceeding in the whole the sum of one hundred pounds is entitled to the benefit of the said act in the manner therein directed.

And whereas such relief may be extended to persons committed for larger sums without any inconvenience to the public.

[Section I.] Be it therefore enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That any person or persons charged or hereafter to be charged in execution for any sum or sums of money not exceeding in the whole the sum of one hundred and fifty pounds to any one person shall and may, after the publication of this act, be relieved in the same manner as any person now can or may be for a smaller sum by virtue of the said act or of an act, entitled "An act for the amendment of the law, entitled 'An act for the relief of insolvent debtors," "2 anything therein contained to the contrary notwithstanding.

[Section II.] And be it further enacted by the authority aforesaid, That if any creditor or creditors, being dissatisfied with the oath or affirmation of the party charged in execution, and shall and do insist upon his or her being longer detained

<sup>1</sup> Passed February 14, 1729-30, Chapter 315.

<sup>2</sup> Passed February 6, 1730-31, Chapter 321.

in the prison, the court shall notwithstanding immediately discharge the said prisoner unless the said creditor or creditors shall then and there agree by writing, under his or her hand, to pay and allow any sum of money that shall be assessed by the said court not exceeding five shillings per week, but in case the prisoner has a wife or children, any sum not exceeding seven shillings and six pence per week to the prisoner, his wife or children; or in case the prisoner be a widow, to her and her children in such proportions as the justices of the said court from time to time shall direct, on every Monday so long as he or she shall continue in prison in the same manner and under the same restrictions and penalties as in the aforesaid act of assembly made for the relief of insolvent debtors is provided.

[Section III.] And be it further enacted by the authority aforesaid, That so much of the act of assembly aforesaid to which this act is a supplement as is hereby altered or changed, be and is hereby repealed.

Passed February 2, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed February 14, 1729-30, Chapter 315.

## CHAPTER DXIX.

AN ACT FOR THE RELIEF OF WALTER DAVIES, A LANGUISHING PRISONER IN THE GAOL OF PHILADELPHIA, WITH RESPECT TO THE IMPRISONMENT OF HIS PERSON.

Whereas Walter Davies hath, by petition to the present assembly of this province, set forth that he now is a languishing prisoner in the gaol of the city of Philadelphia, where, for eight months past, he hath been confined at the suit of a certain Francis Hamitt for a debt of one hundred and twenty pounds sterling for which the said petitioner gave his notes of hand to a certain John Charles Sauliner, who is become a bankrupt, and the said notes have been indorsed or assigned to the said Francis

Hamitt; that his, the said petitioner's, many misfortunes in

trade for five years past have put it out of his power to pay the said debt, which is all he owes in this province; and that he has offered to give up to the said Francis Hamitt all that he is worth. but that the said Francis Hamitt, alleging that he did not think himself safe in discharging the said petitioner, lest he should be sued by the said bankrupt's assignees, declared he was sorry that he had arrested the said petitioner and sincerely wished that he could be relieved by some other means, and therefore the said petitioner prays relief in the premises.

And whereas on due inquiry being made it appears that the allegations of the said petitioner are true; therefore, to relieve him from the distress of imprisonment and to enable him to carry on business for the payment of his just debts and for his maintenance, we, the representatives of the freemen of the province of Pennsylvania, request the governor that it may be enacted:

[Section I.] And be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same. That the justices of the county court of common pleas for the county of Philadelphia, or any three of them, shall, on an application for that purpose to them in writing made by the said Walter Davies, appoint a certain day and place for holding a special court of common pleas, whereof due notice shall be given to the creditor or creditors at whose suit he stands charged by leaving the same in writing at his, her or their [last] place of abode, at which time and place the said justices, or any three of them, shall, by an order or rule of the said court, cause the said Walter Davies to be brought before them, and the said court shall then and there, in the presence of the said creditor or creditors, if he or they will be present, administer to the said Walter Davies an oath or affirmation according to law to the effect following, to wit:

"That the account by [him], the said Walter Davies, delivered into that honorable court in his petition to the said court doth contain a true and perfect account of all his real and personal estate, debts, credits and effects whatsoever which he or any in trust for him have or at the time of his said petition had or is or was in any respect entitled to in possession, remainder or reversion (excepting the wearing apparel and bedding for himself not exceeding ten pounds in value in the whole), and that he has not at any time since his imprisonment or before, directly or indirectly, sold, leased, assigned or otherwise disposed of or made over in trust for himself or otherwise other than as mentioned in such account any part of his lands, estates, goods, stock, money, debts or other real or personal estate, whereby to have or expect any benefit or profit to himself or to defraud any of his creditors to whom he is indebted."

And the said Walter Davies having taken such qualification in open court and his creditor or creditors being therewith satisfied or failing to discover any effects or estate of the said Walter Davies omitted in such his account, and the said Walter Davies making an assignment to any one or more of his creditors as the court shall order and direct, in trust for the rest of them of all his lands, goods and effects contained in such account by a short indorsement on the back of the same account, by which said assignment the estate, interest and property of the lands, goods and effects so assigned shall be vested in the person or persons to whom such assignment shall be made, who may take possession of the same and sue for the same in his or their own name or names, and that no release of the said Walter Davies, his executors or administrators, subsequent to such assignment shall be any discharge or bar to the assignees aforesaid; that then the said court, upon his making such assignment as aforesaid, shall cause and order the said Walter Davies to be discharged from his imprisonment aforesaid.

[Section II.] And be it further enacted by the authority aforesaid, That the person of the said Walter Davies after such his discharge as aforesaid shall not at any time hereafter be imprisoned for any debts by him before that time contracted.

Provided nevertheless, That the discharge of the said Walter Davies by virtue of this act shall not acquit or discharge any other person from such debt, sum or sums of money for which such person now is bound or engaged for or with the said Walter Davies, nor any lands, goods, chattels or other effects which the said Walter Davies may hereafter have or acquire.

[Section III.] Provided also and be it further enacted by the authority aforesaid, That if the said Walter Davies shall, upon any indictment for taking a false and corrupt oath or affirmation in any matter or thing contained in the said oath or affirmation, be convicted by his own confession or by the verdict of twelve men, the said Walter Davies shall suffer all the pains and penalties which by law may be inflicted on any person convicted of willful and corrupt perjury, and shall likewise be liable to be arrested, taken and imprisoned upon any process de novo and charged in execution for the said debt in the same manner as if the said Walter Davies had never been in execution or discharged before, and shall forever after be barred of any benefit of this act.

Passed February 2, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII.

#### CHAPTER DXX.

AN ACT FOR THE RELIEF OF JAMES PEARSON, A PRISONER IN THE GAOL OF PHILADELPHIA, WITH RESPECT TO THE IMPRISONMENT OF HIS PERSON.

Whereas James Pearson hath, by petition to the present assembly of this province, set forth that he now is and for seventeen months past hath been confined in the common gaol of Philadelphia county for debt at the suit of Messieurs Edmund Kearney and Thomas Gilbert, of the city of Philadelphia, merchants, for the sum of one hundred and twenty-seven pounds, and also at the suits of Messieurs John Bayard, Buckridge Sims and Andrew Hodge; that the said James Pearson, at the time of his being arrested and at several times since, hath offered to the said Edmund Kearney and Thomas Gilbert all the satisfac-

tion in his power, but not being able to pay their whole debt, the only terms on which they would release him, he has been obliged to remain in confinement, exhausting the little substance he had in support of himself and his wife; that for some time past he has suffered great distress and at present is subsisted by the donations of the humane and charitable; that he now and for three years past has labored under infirmities of body which occasioned his failure, by preventing him from following the seas, to which he had been bred, and therefore prays relief in the premises.

And whereas the several creditors aforesaid of the said James Pearson have signified to the present assembly that they have no objection to the said James Pearson's obtaining the relief prayed for.

Wherefore, to relieve the said James Pearson from the distress of imprisonment and to enable him to carry on business for the payment of his just debts and the maintenance of himself and family, we, the representatives of the freemen of the said province, request the Governor that it may be enacted:

[Section I.] And be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the justices of the county court of common pleas for the county of Philadelphia, or any three of them, shall, on application for that purpose to them in writing made by the said James Pearson, appoint a certain day and place for holding a special court of common pleas, whereof due notice shall be given to the creditor or creditors at whose suit he stands charged, at which time and place the said justices, or any three of them, shall, by an order or rule of the said court, cause the said James Pearson to be brought before them, and the said court shall then and there, in the presence of the said creditor or creditors if he or they will be present, administer to the said



James Pearson an oath or affirmation according to law to the effect following, to wit:

"That the account by him, the said James Pearson, delivered into that honorable court in his petition to the said court doth contain a true and perfect account of all his real and personal estate, debts, credits and effects whatsoever which he or any in trust for him have or at the time of his said petition had, or is, or was in any respect entitled to in possession, remainder or reversion (excepting the wearing apparel and bedding for himself not exceeding ten pounds in value in the whole), and that he has not at any time since his imprisonment or before directly or indirectly sold, leased, assigned or otherwise disposed of or made over in trust for himself or otherwise other than as mentioned in such account any part of his lands, estate, goods, stock, money, debts or other real or personal estate whereby to have or expect any benefit or profit to himself or to defraud any of his creditors to whom he is indebted."

And the said James Pearson having taken such oath or affirmation in open court and his creditor or creditors being therewith satisfied or failing to discover any effects or estate of the said James Pearson omitted in such his account and the said James Pearson making an assignment to any one or more of his creditors as the court shall direct, in trust for the rest of them of all his lands, goods and effects contained in such account, by a short indorsement on the back of the same account, by which said assignment the estate, interest and property of the lands, goods and effects so assigned shall be vested in the person or persons to whom such assignment shall be made, who may take possession of the same and sue for the same in his or their own name or names, and that no release of the said James Pearson, his executors or administrators, subsequent to such assignment, shall be any discharge or bar to the assignees aforesaid, that then the said court, upon his making such assignment as aforesaid, shall cause and order the said James Pearson to be discharged from his imprisonment aforesaid.

[Section II.] And be it further enacted by the authority aforesaid, That the person of the said James Pearson after such his discharge as aforesaid shall not at any time hereafter be imprisoned for any debts by him before that time contracted.

Provide revertheless, That the discharge of the said James

# 1764-65] The Statutes at Large of Pennsylvania.

Pearson, by virtue of this act, shall not acquit or discharge any other person from such debt, sum or sums of money for which such person now is bound or engaged for or with the said James Pearson nor any lands, goods, chattels or other effects which the said James Pearson may hereafter have or acquire.

[Section III.] Provided also and be it further enacted by the authority aforesaid, That if the said James Pearson shall, upon any indictment for taking a false and corrupt oath or affirmation in any matter or thing contained in the said oath or affirmation, be convicted by his own confession or by the verdict of twelve men, the said James Pearson shall suffer all the pains and penalties which may by law be inflicted on any person convicted of willful and corrupt perjury, and shall likewise be liable to be arrested, taken and imprisoned upon any [process] de novo and charged in execution for the said debt in the same manner as if the said James Pearson had never been in execution or discharged before, and shall forever after be barred of any benefit of this act.

Passed February 2, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII.

### CHAPTER DXXI.

AN ACT THE BETTER TO ENABLE THE PERSONS THEREIN NAMED TO HOLD LANDS AND TO INVEST THEM WITH THE PRIVILEGES OF NATURAL BORN SUBJECTS OF THIS PROVINCE.

Whereas George Hitner, the younger, of the city of Philadelphia, saddler, William Harman, of the same city, baker, and Philip Bush, of Blockley township, in the county of Philadelphia, innholder, being Protestants and born out of the allegiance of His Majesty King George the Third, and subjects of some princes in Germany in amity with the Crown of Great Britain, have humbly applied to the representatives of the freemen of this province in General Assembly met, setting forth their being

brought into this province during their infancy, and that they have ever since dwelt in the same and demeaned themselves in dutiful obedience to the government and its laws, and have an earnest desire of being made partakers of those privileges which the natural born subjects of Great Britain enjoy within this province; and it being just and reasonable that those persons who have given testimony of their affection and obedience to the Crown of Great Britain should as well be secured in the enjoyment of their estates as encouraged in their laudable affection to and zeal for the English Constitution.

Wherefore, we, the representatives of the freemen of the province of Pennsylvania, in general assembly met, do request the governor that it may be enacted:

[Section I.] And be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said George Hitner, the younger, William Harman and Philip Bush and each and every of them, upon taking and subscribing the several oaths and declarations directed to be taken and subscribed by the several acts of Parliament made for securing the King's person and government and for preventing the dangers which may happen by Popish recusants, &c., before the governor's secretary for the time being, shall and they and every of them are hereby declared to be deemed, taken and held, to all intents and purposes, free and fully able to trade, traffic, load, freight and transport all manner of goods, wares, merchandises not by law prohibited to be imported or exported, as if they and each of them had been natural liege people and subjects of the King of Great Britain, born in this province, and also that they and each of them, after taking the oaths and making, repeating and subscribing the declarations aforesaid, shall be and are hereby adjudged and declared to be able and capable, to all intents and purposes, to take, receive, have, hold and enjoy all manner of lands, tenements, hereditaments and

real and personal estate now or at any time hereafter to them or either of them given or granted by purchase or gift of any person or persons, bodies politic or corporate, whatsoever, and to sue, prosecute, pursue, maintain, avow and justify all manner of actions, suits and causes whatsoever and to have. hold and enjoy all and every the rights, liberties, privileges, advantages, benefits and immunities whatsoever belonging to His Majesty's liege people and natural subjects born within this province as lawfully, fully and freely as if they and every of them had been or were born natural subjects within this province, any law, custom or usage to the contrary notwithstanding.

Passed February 2, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VII.

### CHAPTER DXXII.

AN ACT FOR THE RELIEF OF ROBERT LETTIS HOOPER, JUNIOR, A PRISONER IN THE GAOL OF PHILADELPHIA, WITH RESPECT TO THE IMPRISONMENT OF HIS PERSON.

Whereas Robert Lettis Hooper, junior, hath, by petition to the last and present assembly of this province, set forth that he, meeting with many accidents and losses in trade, by which he was rendered incapable of carrying on his business and paying his just debts, did, on the fourteenth day of February last past, surrender and assign all his estate, real and personal, to Edmund Kearney, Gilbert Barclay, Thomas Wallace and John Wikoff for the use of all his creditors, and that a great majority of his principal creditors have signed a letter of license in his favor, but that by virtue of an execution issued against him at the suit of Redmond Conyngham and John Maxwell Nesbit for one hundred and fifty-eight pounds thirteen shillings and six pence halfpenny he is now confined in the gaol of the city and county of Philadelphia, which sum by reason of the said surrender he is at present utterly unable to discharge, and is detained in con

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finement to the great injury of his family and prevented from justly endeavoring to pay the balances that may remain against him after a distribution of his effects is made among his creditors, which he is willing to do whenever he may be able, and that unless he can obtain his liberty by the aid of the legislature, he has no hopes of obtaining it by any other means, and therefore prays relief in the premises.

And whereas it appears to the house by a certificate of the said assignees that the said Robert Lettis Hooper, junior, hath assigned to them for the use and benefit of his creditors, all his estate, real and personal, and that he has delivered up to them all his effects and credits without any reservation except as is hereinafter mentioned.

And whereas it hath been represented to us by the said assignees and a considerable number of reputable inhabitants, merchants, traders and others of the city and county of Philadelphia, among whom are many of the principal creditors of the said Robert Lettis Hooper, junior, that his misfortunes have arose [sic] from accidents to which all trading persons are liable, and that he is now utterly incapable of paying the debt for which he is confined, having surrendered up all his effects to his creditors, and they pray that the house would afford him relief.

Therefore, to relieve the said Robert Lettis Hooper from the distress of imprisonment and to enable him to carry on business for the payment of his just debts and the maintenance of himself and his family, we, the representatives of the freemen of the said province, request the governor that it may be enacted:

[Section I.] And be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said Edmund Kearney, Gilbert Barclay, Thomas Wallace and John Wikoff, or the survivors of them, shall, as soon as conveniently may be after the passing of this act, pro-

ceed towards a just and equal distribution to and among all the creditors of the said Robert Lettis Hooper, junior, in proportion to the several and respective debts justly due to them, of all such sums of money as now are or hereafter shall come to their hands by virtue of the said surrender or assignment.

[Section II.] And be it further enacted by the authority afore-said, That the justices of the county court of common pleas for the county of Philadelphia, or any three of them, shall, on application for that purpose to them in writing made by the said Robert Lettis Hooper, junior, appoint a certain day and place for holding a special court of common pleas, whereof due notice shall be given to the creditor or creditors at whose suit he stands charged, at which time and place the said justices, or any three of them, shall, by an order or rule of the said court, cause the said Robert Lettis Hooper, junior, to be brought before them, and the said court shall then and there, in the presence of the said creditor or creditors, if he or they will be present, administer to the said Robert Lettis Hooper, junior, an oath or affirmation according to law to the effect following, to wit:

"That the said Robert Lettis Hooper, junior, did by a conveyance bearing date the fourteenth day of February, in the year of our Lord one thousand seven hundred and sixty-four, make over and assign to the said Edmund Kearney, Gilbert Barclay, Thomas Wallace and John Wikoff all his estate, real and personal, which he or any in trust for him have, had or was in any respect entitled to in possession, remainder or reversion at the time of signing the conveyance (except bedding and wearing apparel for himself and [his] wife and thirty pounds current money of this province of which he then informed the said assignees), and that he has not at any time since or before, directly or indirectly, sold, leased or assigned or otherwise disposed of or made over in trust for himself or otherwise any part of his lands, goods, stock, money, debts or other real or personal estate whereby to have or expect any benefit or profit to himself, or with design to defraud any of his creditors to whom he is indebted."

And the said Robert Lettis Hooper, junior, having taken such qualification in the said court and his creditor or creditors being therewith satisfied or failing to discover any effects or estate of the said Robert Lettis Hooper, junior, not made over as aforesaid or secreted, the said court shall order and cause the said Robert Lettis Hooper, junior, to be discharged from imprisonment, whereupon the estate, interest and property of the lands, goods and effects so made over [and] assigned shall be vested in the said assignees, who may sue for the same or any part thereof in their own names and no release of the said Robert Lettis Hooper, junior, or his executors or administrators subsequent to the said assignment shall be of any validity against the said assignees.

[Section III.] And be it further enacted by the authority aforesaid, That the person of the said Robert Lettis Hooper, junior, after such his discharge as aforesaid, shall not at any time hereafter be imprisoned for any debts by his contracted before the passing of this act.

Provided nevertheless, That the discharge of the said Robert Lettis Hooper, junior, by virtue of this act, shall not acquit or discharge any other person from such debts, sum or sums of money for which such person now is bound or engaged for or with the said Robert Lettis Hooper, junior, nor any lands, goods, chattels or other effects which the said Robert Lettis Hooper, junior, may hereafter have or acquire.

[Section IV.] Provided also, and be it further enacted by the authority aforesaid, That if the said Robert Lettis Hooper, junior, shall, upon any indictment for taking a false and corrupt oath or affirmation in any matter or thing contained in the qualification aforesaid, be convicted by his own confession or the verdict of twelve men, he shall suffer the pains and penalties which by the laws of this province may be inflicted on any person convicted of willful and corrupt perjury, and shall likewise be liable to be arrested, taken, imprisoned and charged in execution for any debt due before the passing of this act in the same manner as if this act had never passed.

Passed February 2, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII.

## CHAPTER DXXIII.

AN ACT FOR AMENDING EACH AND EVERY OF THE ACTS OF ASSEMBLY OF THIS PROVINCE HERETOFORE MADE FOR EMBANKING AND DRAINING SEVERAL PARCELS OF MARSHY LAND, SITUATE IN THE COUNTIES OF PHILADELPHIA AND CHESTER, AND FOR REPAIRING AND MAINTAINING THE BANKS, DAMS AND SLUICES THEREUNTO BELONGING.

Whereas the method prescribed for recovering the sums of the deposit money and assessments laid and to be laid and assessed by the managers appointed by virtue of the several acts of assembly heretofore made for embanking and draining the several pieces or parcels of marsh or meadow ground situate in the counties of Philadelphia and Chester hath on experience been found by the said managers not to answer the good ends intended, whereby some of the [said] banks, dams and sluices, for want of a more speedy supply of money which should at all times be in the hands of the treasurers ready to be applied to enable the managers respectively to uphold and repair them agreeable to the said several laws, have been suffered in several places to go much out of repair, to the great damage and injury of the owners and possessors of the said meadows.

For remedying whereof:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any of the said owners, possessors or occupiers of meadow lands whose banks, dams and sluices are in any wise upheld, supported, maintained or regulated by any law of this province heretofore made shall neglect or refuse to pay the several sums of money that have or shall from time to time be rated, assessed and laid for supporting their respective proportions of the banks.

dams and sluices by the major part of the managers of each respective company, together with the forfeitures arising thereon which they respectively ought to pay, for the space of thirty days after demand made by the treasurer of the respective company; or have heretofore neglected or refused or shall hereafter neglect or refuse to reimburse the treasurer for the time being the necessary expense of making and repairing his, her or their part, share or proportion of the banks to them duly assigned respectively, agreeable to the directions of the several acts of assembly aforesaid, that then and so often it shall and may be lawful to and for the said several treasurers by direction of the major part of the managers for the time being respectively in his own name to apply to some justice of the peace of the county for his warrant of distress for levying the said sums of money so neglected or refused to be paid, directed to the constable of the township where the meadows are, which said warrant the said justice of the peace is hereby empowered and directed to grant accordingly, to be by the said constable levied on the tract or piece of marsh, meadow or cripple belonging as aforesaid to such owner or owners so neglecting or not to be found in the county, and deliver the same over unto the managers respectively for the time being, who, or the major part of them, are hereby empowered and authorized to let the same on rent or any part thereof that may be sufficient belonging to such delinquent owner or owners so neglecting as aforesaid or where they are not to be found in the county from time to time for so long time as until the rent or rents arising therefrom shall, as nearly as may be computed, pay all such sum or sums of money so assessed or so charged, together with all costs and forfeitures arising thereon, for his, her or their neglect or refusal to pay the same as aforesaid and no longer.

Provided always, That in letting out the said meadow land the said managers do publicly notify the leasing thereof and let the same to the highest bidder at private sale or bargain.

And whereas the frequent mowing and keeping clean the banks and dams that inclose each of the aforesaid meadows from weeds and rubbish and sowing them with English grass seed would manifestly tend to strengthen and render them more durable:

[Section II.] Be it therefore enacted by the authority aforesaid, That upon the neglect or refusal of any of the respective owners or possessors of any meadow lands subject to any of the laws heretofore made for the better supporting and upholding the banks that inclose them, after notice being given him, her or them by any one of the managers for the time being to mow, dress, keep clean or sow with English grass seed his, her or their banks and dams to them properly assigned and belonging for the space of thirty days, it shall and may be lawful to and for the major part of the managers of the respective meadow companies for the time being from time to time to employ a sufficient number of workmen to mow, dress, keep clean and sow with English grass seed the said banks or dams so neglected as aforesoid, and charge the owners, possessors or occupiers respectively with the whole cost arising thereupon; and upon their or any of their neglect or refusal to pay the same it shall and may be lawful for the treasurer of the said respective companies, by order of the major part of the managers for the time being respectively, to recover the money so expended in the manner hereinbefore directed, with costs of suit accordingly, any law, custom or usage to the contrary thereof in any wise notwithstanding.

[Section III.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the owners, possessors and occupiers of the Wiccaco Meadows, or as many of them as shall see proper, to meet together on the first Monday in April yearly and every year, at the court-house in Philadelphia or at such other convenient place as shall hereafter be appointed by the managers of the Wiccaco Company, to be chosen by virtue of this act, and then and there by a majority of those met shall choose by tickets in writing five fit persons, owners or occupiers of the said meadows, to be managers and one fit person to be treasurer for the said Wiccaco Company for the ensuing year, anything in an act of assembly, entitled "An act to enable the owners and occupiers of the Wiccaco Meadows, in the county of Philadelphia, to keep the banks, dams, sluices and floodgates

in repair, and to raise a fund to defray the expense thereof," 1 passed in the second year of His present Majesty's reign, to the contrary notwithstanding.

[Section IV.] And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the treasurer of the Greenwich Island Company, by order of a majority of the managers of the said company for the time being, to recover the rates, assessments, shares or proportions of money laid or to be laid, rated and assessed by the said managers, or a majority of them, from time to time for and towards repairing the bridge over Hollander's creek and the road leading over the said bridge on all persons holding lands in the said island accommodated by the said bridge and road in the same manner as the other rates and assessments are directed to be recovered by virtue of this act, any law of this province to the contrary notwithstanding.

[Section V.] And be it further enacted by the authority aforesaid, That so much of each and every of the several respective acts of assembly of this province heretofore made for enabling the owners and possessors of drained meadow land to uphold the banks, dams and sluices that inclose the said lands so drained as is hereby altered, changed, contradicted or supplied shall be and is hereby declared to be repealed and made null and void to all intents and purposes.

Passed February 15, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the notes to (the two acts of) Assembly passed April 12, 1760, Chapters 454, 455; (the two acts of) March 14, 1761, Chapters 458, 462; September 26, 1761, Chapter 472; (the three acts of) February 17, 1762, Chapters 473, 474, 475; and the Acts of Assembly passed February 21, 1767, Chapter 558; February 26, 1800, Chapter 2108.

<sup>&</sup>lt;sup>1</sup> Passed February 17, 1762, Chapter 473.

### CHAPTER DXXIV.

A SUPPLEMENT TO AN ACT, ENTITLED "A SUPPLEMENT TO THE ACT, ENTITLED 'AN ACT FOR REGULATING, PITCHING, PAVING AND CLEANSING THE HIGHWAYS, STREETS, LANES AND ALLEYS, AND FOR REGULATING, MAKING AND AMENDING THE WATERCOURSES AND COMMON SEWERS WITHIN THE INHABITED AND SETTLED PARTS OF THE CITY OF PHILADELPHIA, AND FOR RAISING OF MONEY TO DEFRAY THE EXPENSE THEREOF."

Whereas the commissioners appointed in and by an act of the general assembly of this province, entitled "An act for regulating, pitching, paving and cleansing the highways, streets, lanes and alleys, and for regulating, making and amending the watercourses and common sewers within the inhabited and settled parts of the city of Philadelphia and for raising of money to defray the expense thereof," 1 passed in the third year of His present Majesty's reign, were, by another act, entitled "A supplement to the act, entitled 'An act for regulating, pitching, paving and cleansing the highways, streets, lanes and alleys, and for regulating, making and amending the watercourses and common sewers within the inhabited and settled parts of the city of Philadelphia and for raising money to defray the expense thereof," 2 passed in the same year, for divers good reasons and causes as was then apprehended, authorized and empowered to open, cleanse, repair, regulate and make navigable a certain watercourse in the city of Philadelphia commonly called and known by the name of the Dock, extending from the river Delaware across Front street, Second street and Walnut street to the Third street in the said city with a street on each side thereof, formerly granted by the late Honorable William Penn, Esquire, proprietary and governor of this province, to the inhabitants of the said city for public use, in such manner as to them the said commissioners should seem most convenient. useful and advantageous to the public.



<sup>1</sup> Passed March 26, 1762, Chapter 480.

<sup>&</sup>lt;sup>2</sup> Passed March 4, 1763, Chapter 485.

And whereas upon a careful examination made by the said commissioners it is found that the opening and making navigable that part of the said Dock situate between Walnut and Third streets will not answer the good purposes that were expected from the same, but that it will be more convenient, useful and advantageous to the public that such part of the said Dock should be filled up over the arch now erected, and with the streets adjoining be regulated as one public street:

[Section I.] Be it therefore enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, That such part of the said Dock as is situate between Second and Third streets, extending from Walnut street to the said Third street, shall be filled up over the arch now erected and be, together with the street, adjoining on each side, leveled, regulated and left open and common for the use of the public as one street forever by the uame of Dock street.

[Section II.] And be it further enacted by the authority aforesaid, That so much of the said recited acts as is hereby altered or changed be and is hereby repealed, annulled and made void, anything in the said acts or either of them contained to the contrary notwithstanding.

Passed February 15, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed March 26, 1762, Chapter 480.

### CHAPTER DXXV.

AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF A CERTAIN PIECE OF MARSH OR MEADOW GROUND HEREINAFTER DESCRIBED, SITUATE IN KINGSESSING, IN THE COUNTY OF PHILADELPHIA, TO EMBANK AND DRAIN THE SAME, TO MAKE AND KEEP THE OUTSIDE BANKS AND DAMS IN GOOD REPAIR FOREVER, AND TO RAISE A FUND TO DEFRAY THE YEARLY EXPENSES ARISING THEREON.

Whereas there is a certain piece or parcel of undrained marsh or meadow ground situate in the township of Kingsessing, in the county of Philadelphia, comprehended within the bounds and limits following: That is to say, beginning at the shore or fast land of John Hunt, at the north end of a certain dam now in use over Kingsessing creek, commonly called or known by the name of Boon's dam, thence extending along the said dam to the south end thereof; thence by the north side of the road now used to Knowles's and Blakley's island to a post by the side of a piece of fast land belonging to the said Knowles, thence round by the side of the said fast land to the road aforesaid at the bank or passage leading on to the island aforesaid, thence extending along the said bank or passage one hundred and two perches to a corner near a mulberry tree; thence south fortythree degrees east thirty-three perches to the side of a certain creek called Three creek, dividing the island aforesaid from Boon's island; thence crossing the said creek where a dam is intended hereafter to be made to the north side thereof; thence down the said creek to Kingsessing creek aforesaid, sometimes called Mingo creek; thence up the said Kingsessing or Mingo creek about sixty perches to a certain place where a dam is intended hereafter to be erected; thence crossing the said [creek to] John Hunt's bank, three perches westerly from a certain creek dividing the land of the said John Hunt from the land of William Jones; thence westerly along the said John Hunt's bank as it now is to the shore or fast land; thence along the side of the fast land to the place of beginning, named and hence-

forth to be called The Eastern Division of Boon's Island, all which piece or parcel of land is subject to the overflowing of the tide, the several owners whereof propose by dams, banks, sluices and floodgates near the outside thereof the whole completely to embank and drain; but forasmuch as such improvements are, from their own nature and situation, subject to many casualties and without constant care and expense not only liable to decay, but the defect of one part is often destructive and ruinous to several, and amongst a number of owners such frequent disputes arise concerning repairs and the means of defraying the necessary expense thereof that sometimes from little neglects great damages ensue and the heavy charge of several owners may be rendered ineffectual through the default of a few. To prevent which damages and inconveniences and for the security and encouragement of the said owners and undertakers of this improvement [they pray]:

[Section I.] That it may be enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all and every the owner or owners, possessor or possessors of the marsh or meadow land lying within the bounds aforesaid or so many of them as shall think fit, may meet and assemble on the first Monday in March next at the house of William Boon, in Kingsessing aforesaid, and then and there by a majority of those met shall choose by tickets in writing two fit persons, owners or possessors of land within the limits aforesaid, to be the managers and one fit person to be treasurer for the yearthen next ensuing.

And in order speedily and the more effectually to raise the money necessary for making the banks, dams, sluices and floodgates to inclose and drain the piece or parcel of marsh aforesaid:

[Section II.] Be it enacted by the authority aforesaid, That the said managers shall lay a rate or assessment not exceeding one pound ten shillings per acre at one time and so from time to time as they shall see occasion on all and every the owners and possessors of the said marsh or meadow land for what they shall respectively hold and possess within the limits hereafter to be inclosed within the banks, which rate or rates from time to time the said owners shall, within ten days after demand made, pay to or deposit in the hands of the said treasurer, there to remain subject to the drafts and orders of the said managers for the purposes aforesaid; and that the said managers, as soon as may be after a sufficient sum of money shall be paid as aforesaid into the treasury, shall employ a proper number of workmen and laborers to embank all the meadow lands in the said division by erecting, making and laying a sufficient number of dams, banks, sluices and floodgates wherever the same may be necessary for the effectual stopping out the waters from the same.

[Section III.] And be it further enacted by the authority aforesaid, That James Coultas, Esquire, and George Gray and John Smith, gentlemen, or any two of them, are hereby nominated, authorized and appointed, within six months after the banks and dams are made as aforesaid, to divide the banks which surround and include all that the said piece or parcel of marsh and meadow land aforesaid, and allot and appoint how many perches of the said bank each owner or possessor of the said piece or parcel shall make, repair, maintain and support in proportion to the number of acres of meadow he holds therein, having an equitable regard to the quality, situation and circumstances of the ground or part so to be allotted. All which said allotments and divisions so made and signified by an instrument in writing under the hands and seals of any two of them shall be the proper shares, parts, proportions and quantities of bank and dams aforesaid for the several owners or possessors of the said meadow to make, repair and support at their own proper expense and charge.

[Section IV.] And be it further enacted by the authority aforesaid, That the owners, occupiers and possessors of the said piece of meadow land respectively whose allotments, shares or parts of the bank are in any wise defective shall, within three months from the making the said banks and dams, cause them to be put in good and substantial repair, and make up, or cause

their respective parts of the banks so as aforesaid allotted to be made up level on the top and sufficiently strong and secure to defend the said meadows from all inundations, for which end the said banks shall always be kept at least nine inches above all tides by each and all of the said owners, possessors or occupiers on their and each of their parts so as aforesaid to them respectively allotted under the penalty of ten shillings for every perch out of repair, to be paid to the said company's treasurer by the persons so neglecting or refusing, to be levied by the manager for the said division hereafter to be chosen, if he see cause, and added to the common stock.

[Section V.] And be it further enacted by the authority aforesaid, That the costs and charges of making, maintaining and amending the dams, sluices or floodgates hereafter to be made shall be paid by all the owners, occupiers or possessors of the land in the said division, according to the number of acres that they and each of them shall hold, possess and occupy, the same to be made, supported and amended in such manner as the manager for the said division hereafter to be chosen shall direct.

[Section VI.] And be it further enacted by the authority aforesaid. That it shall and may be lawful for the owners of the said Eastern Division of Boon's Island, or as many of them as shall think fit, to meet together on the first Monday in March yearly and every year at the school house in Kingsessing aforesaid, near the end of John Hunt's lane, or such other convenient place as shall hereafter be appointed by the manager to be chosen by virtue of this act, and then and there, by a majority of those met, shall choose by ticket in writing one fit person, owner or possessor of land in said division, to be manager, and one fit person to be treasurer for the said Eastern Division Company for the year then next ensuing.

[Section VII.] And be it further enacted by the authority aforesaid, That if any owner or possessor elected manager as aforesaid, on due notice given in writing of his election by some of the company present at the said election, shall refuse or afterwards neglect to do the duty required of him by this act, he, for so refusing or neglecting his duty, shall forfeit and pay to the treasurer for the time being the sum of forty shillings, to be added to the common stock of the division, unless he shall have served four years [successively] in the said office, which fine shall be recovered in the manner hereinafter directed for the recovery of other money payable to the treasurer of the said division and the said owners shall proceed to choose another of the said company to be a manager in the place of him so refusing or neglecting. And if the person so elected treasurer shall refuse or neglect to take upon him the duties or to give the securities required by this act, or shall misbehave himself or by death or otherwise be rendered incapable to execute the said office, in any of these cases the manager for the time being shall choose another fit person to be the treasurer for that year.

[Section VIII.] And be it further enacted by the authority aforesaid, That every treasurer hereafter to be chosen shall, before he takes upon him the execution of his office, enter into an obligation with at least one sufficient surety in double the value of the money that doth or may probably come into his hands during the continuance of his office, as near as can be estimated by the manager, conditioned that he will once in every three months or oftener if required, render his accounts to the said manager and well and truly account, adjust and settle with him when required for and concerning all moneys that are or shall come to his hands by virtue of this act or that belong to the owners of the land in the said division, and shall well and truly pay the balance that shall appear on such settlement to be in his hands to such persons and to such services as the manager for the time being shall order and appoint and not otherwise, and that he will, at the expiration of his office, well and truly pay, or cause to be paid and delivered, all the money then remaining in his hands, together with the books of accounts concerning the same and all other papers and writings in his keeping belonging to the owners of the lands of the said Eastern Division unto his successor in the said office and that he will do and execute all other matters and things as treasurer to the said owners according to the true sense and meaning of this act.

[Section IX.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said manager,

as often as he shall see occasion, to lay such assessments and taxes on every acre of land in the said division as he shall judge to be necessary for the benefit and security of the same.

And the said manager for the time being in every year is hereby empowered, authorized and required to enter upon and inspect at least four times in each year the condition of all the said banks, dams, sluices, floodgates and other conveniences necessary for stopping out the tides or draining the water from the said meadows; and if any part shall appear unfinished, damaged, decayed or destroyed, or more liable by its situation, nature of the soil or other circumstances to be washed away or destroyed than other parts or shall be in any manner insufficient for the purposes aforesaid, he, the said manager, shall consider and determine by what methods such part or parts may be made good and secure, by stone or other firm and durable materials, and on such inspection and determination the said manager shall give notice to and require the said owners or possessors, or their guardians (if minors and within the county of Philadelphia), forthwith to amend their and each of their parts or allotments in such manner as he shall direct, all of which banks shall be of sufficient breadth and at least nine inches above any tide that hath been known, and if such extraordinary work shall be directed by the manager to be done for the mending and supporting of any such parts of the banks as are or have been allotted as aforesaid so to be made, mended or supported by any of the particular owners or possessors, then the expense and costs of such extraordinary work shall not be put on the person to whom that allotment was made, but shall be allowed to him and paid out of the common stock, he contributing his proportionable share and part thereto.

[Section X.] And be it further enacted by the authority afore-said, That if by any general overflowing of the water hereafter the banks, dams or sluices belonging to owners of any one allot-ment shall be damaged or destroyed by the force of the water from within which had been admitted by defects in the banks belonging to the owners of other allotments, in all such cases the delinquent owners shall pay all the costs of repairs, unless the manager for the time being shall from any circumstances

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consider it as an act of Providence, in which case they may repair it at the general expense of all the owners of the said Eastern Division and order the treasurer to pay the charge thereof.

[Section XI.] And be it further enacted by the authority aforesaid, That if any of the said owners or occupiers of the land in the said division, or any guardian of a minor owner thereof, so warned by the said manager, shall refuse or neglect after such warning to amend and repair their respective parts agreeable to the direction of the said manager, or if any of the said owners or guardians are not known or readily to be found within the said county at the time aforesaid, that then and as often as it shall so happen, it shall and may be lawful to and for the said manager, together with such workmen, horses, carts, barrows and tools as he shall think necessary, to enter into and upon the lands of him, her or them where such breach or defect shall happen to be, and then and there to dig and carry earth or purchase suitable materials to make, amend and repair the said banks, dams, sluices, floodgates and all other conveniences necessary for stopping out the tide or for draining the waters off the meadows in such manner and by such ways and means as he shall think fit and reasonable, any law of this province, usage or custom to the contrary in any wise notwithstanding.

And he, the said manager, shall adjust and settle the expense thereof with those to whom such parts or shares of the banks so amended and repaired were before allotted as he shall think reasonable, except, as is before mentioned, in case of any extraordinary expense arising from its situation, nature of the soil or other circumstances; in all which cases the extraordinary charge beyond what other allotments are subject to shall be paid out of the common stock, and shall also deliver to the said owners, guardians or possessors of the said meadow land on whose allotment such repairs shall be made or to as many of them as shall be found, their respective bills of the charge of repairing the said part of the bank to them before allotted, and shall order payment accordingly; and in case of their or any of their refusal or delay of payment he shall order the treasurer for the time being to advance and pay so much out of the public

stock as shall be sufficient to satisfy the said charge until it can be obtained of those who ought to pay the same.

And in order to establish a fund to defray sundry contingent and yearly expenses and [to] prevent any delay hereafter for want of money in case of inundations or extraordinary accidents:

Section XII. Be it enacted by the authority aforesaid, That every owner or possessor of land in the aforesaid Eastern Division shall, on or before the second Monday in June next after the banks, dams and sluices are made as aforesaid, pay or cause to be paid or deposited in the hands of the treasurer aforesaid the sum of two shillings current money of Pennsylvania for each and every acre they respectively have, hold, occupy or possess in the said division, exclusive of flats, creeks, or waste lands. And all and every person or persons, whether owners or renters, who shall on the second Monday in June in every year hereafter be owner, occupier or possessor of meadow land in the said division shall, in like manner, pay or deposit or cause to be paid or. deposited into the hands of the treasurer for the time being such sum or sums of money as the manager for the time being shall find necessary to assess and order, which sum, if paid by the aforesaid renter, he, the said renter, shall and is hereby empowered to deduct out of his rent.

So always and provided, That the sum of six pounds shall in the beginning of every year be in the treasurer's hands, ready to be applied in the premises as occasion may require, of all which sums of money and all other money coming to his hands by virtue of this act and of all disbursements and payments thereof from time to time made, the said treasurer shall in books to be provided for that purpose keep a just and true account, and shall pay and deliver the same according to the directions and orders of the manager for the time being and not otherwise.

[Section XIII.] And be it further enacted by the authority aforesaid, That the manager for the time being shall, before the day hereinbefore appointed for the payment of the yearly quotas, deposit money or assessment, cause a true list of the names of all and every of the said owners or possessors with a true account of all and every acre of meadow in the aforesaid

division which they respectively have, hold, occupy and possess, exclusive of flats and creeks, according to the best information he can obtain, noting from time to time the several changes, alterations, transfers and alienations of right in the several parts and parcels thereof as they shall come to his knowledge and shall furnish the treasurer with a true copy thereof, together with the sum per acre of the general assessment for the current year when any alteration shall be of the aforesaid deposit of two shillings, according to which list or account the treasurer for the time being shall receive and take the several sums of their and each of their deposit money and assessment respectively in every year raised or assessed by this act, and shall cause public notice of the said rate or assessment per acre to be given at least ten days before the day of payment in every And in case any of the said owners, occupiers vear hereafter. or possessors aforesaid shall refuse or neglect to pay or cause to be paid to the treasurer aforesaid on the days and times aforesaid the several sums of money which they respectively ought to pay or deposit according to the true intent and meaning of this act, they and each of them so neglecting and refusing shall forfeit and pay to the said treasurer the additional sum of two pence for every shilling unpaid which they respectively ought to have paid by the direction of this act, and afterwards shall, for every three months neglect or refusal in like manner forfeit and pay to the treasurer for the time being the like sum of two pence for every shilling which he, she or they failed of paying on the day or time appointed, when they respectively ought to pay by the direction of this act.

[Section XIV.] And be it further enacted by the authority aforesaid, That if any of the said owners, possessors or occupiers shall neglect or refuse as aforesaid to pay the several sums of money hereinbefore directed to be raised and paid, together with the forfeitures arising and hereby imposed which they respectively ought to pay at any time or times hereafter for the space of three months after any of the days or times in which it ought to be paid or shall have neglected or refused to make, amend or repair his, her or their part or share of the banks so as aforesaid to them allotted, or shall have neglected or refused to

reimburse the treasurer for the time being the necessary expense thereof, agreeable to the direction of this act, that then and so often it shall and may be lawful to and for the said treasurer by direction of the said manager in his own name to sue all and every such person or persons so refusing or neglecting for the respective sum or sums of money which he, she or they ought to have paid by virtue hereof by action of debt, if five pounds or under before any justice of the peace of the county, or if above five pounds in any court of record where the same may be cognizable, and give this act and the said assessment or the said account as the case may require in evidence; and the said justice of the peace and the said court are hereby empowered and directed to give judgment and grant execution for the same, with costs of suit accordingly, to be levied on the piece or parcel of marsh or meadow land belonging as aforesaid to such owner or owners so neglecting or refusing and delivered unto the manager for the time being, who is hereby empowered and authorized to let out on rent any part of the said meadow belonging to any of the said owners who shall so neglect or refuse or who shall not be found in the county as aforesaid from year to year for so long time as until the rent or rents arising therefrom shall, as nearly as may be computed, pay all such sum or sums of money so assessed or so charged, together with all costs and forfeitures arising thereon, for his or their neglect or refusal to pay the same as aforesaid and no longer.

Provided always, That in letting out the said meadow the said managers do publicly notify the leasing thereof and let the same to the highest bidder at private sale or bargain.

[Section XV.] And be it further enacted by the authority aforesaid, That no process, suit or proceedings whatsoever which at any time hereafter shall be commenced, sued or brought before any of the justices of the peace or judges or justices of the common pleas or Supreme Court or before any magistrate of this province in the name of any treasurer of the said company of the Eastern Division of Boon's Island by direction of the said manager shall be discontinued or put without day by reason of the death, disability or removal of such treasurer, but shall stand good and effectual in law to all intents and purposes notwithstanding such death, disability or removal.

[Section XVI.] And it is hereby further enacted by the authority aforesaid, That the manager for the time being shall have the power of disposing of all moneys paid to the treasurer by virtue of this act, and of hiring and appointing, at the expense of the said company, any person or persons from time to time to inspect the condition of all the banks, dams, sluices or floodgates belonging to the owners of the said meadow land, and to inform the respective owners or the said manager when any repairs are wanting; and may displace such person or persons and appoint others as often as he shall think fit, and the said manager shall have power to offer and pay such rewards as he may think necessary out of the common stock for the destruction of such vermin as usually damage the said banks and dams as well as for other general services of the said division.

[Section XVII.] And be it further enacted by the authority aforesaid, That the said manager for the time being is hereby authorized and empowered in behalf of the said owners to settle accounts with the treasurer from time to time and shall do and execute all other matters and things pertaining to the general good and benefit of the said owners.

Provided nevertheless, That if any owner or owners shall think him, her or themselves aggrieved by any order, account or proceeding of the said manager, such owner or owners shall, if he or they think proper, choose two fit and disinterested persons and the said manager shall choose two other fit and disinterested persons who, or any three of them, shall finally settle the same and all other matters and things in dispute that shall be referred to them by the said parties.

[Section XVIII.] And be it further enacted by the authority aforesaid, That the orders of the manager on the treasurer for the time being shall be complied with by the said treasurer and shall be good vouchers to indemnify him for the payment and delivery of the money and effects committed to his care by virtue of this act; and that all bonds, mortgages, deeds and conveyances in trust for the use of the said owners shall be taken in the name of the treasurer of the Ragtern Division of Boon's

Island and be payable to him and his successors and shall be mentioned to be for the use of the owners thereof, and with or without assignment shall be good and available in law to his successor or successors in the said trust for the use of the owners as aforesaid, and shall be recoverable in any court of record in this province where the same may be cognizable as fully and effectually to all intents and purposes as if the same were private property and duly assigned in all the forms of law. And the receipts and discharges of such succeeding treasurer or treasurers for any such sum or sums of money paid to him or them shall be effectual in law.

And whereas the well draining, preserving and keeping open the drains of the said meadow land is of great importance to the said owners:

[Section XIX.] Be it enacted by the authority aforesaid, That all and every of the said owners shall be allowed, permitted and suffered to discharge all or any of the waters off their respective lands through their natural channels or by a direct course across the land of any other of the said owners as shall by the manager for the time being be judged convenient, into the main channel, creek or sluice best suiting to discharge the same into the main creek, and shall be allowed to open, scour and cleanse the same when and as often as they or the said manager shall think convenient or necessary, any law, usage or custom to the contrary in any wise notwithstanding.

Provided always, That such owner so requiring a passage for water shall first pay all the damages sustained or that shall be sustained by such neighbor through whose land the water is to be discharged and also all such damages as shall be done to the banks within the said neighbor's allotment in such manner and proportion as shall be settled by the said manager.

And the better to procure a constant supply of fresh water in the said Eastern Division and also on that part of the island aforesaid now within bank belonging to John Knowles and the other lands of John Hunt and William Boon for the use of their horses and cattle:

[Section XX.] Be it enacted by the authority aforesaid, That at all times after the draining the said piece or parcel of meadow

land there shall be in the lid or door of each sluice hereafter to be placed at or near the two dams intended to be made across the two creeks aforesaid a hole or passage for the admission of water of such size and dimensions as on trial and experience shall be found effectual and convenient for the [use] aforesaid or for any other useful and beneficial purpose, anything hereinbefore contained to the contrary thereof notwithstanding.

[Section XXI.] And be it further enacted by the authority aforesaid, That the said John Knowles, his heirs and assigns, shall at all convenient times hereafter have the [free] liberty of a road or passage from the road now used to his and Blakeley's island, beginning at the southeast end of a dam over a branch of Three creek, thence by the side of the same and by Three creek aforesaid across the land of the said John Blakeley to the dam hereafter to be made on the same creek for the conveniency of taking and carrying his or their hay, wood, rails, posts and other commodities to and from the said dam, either to be exported from thence or imported there by water, the same road being used with as little injury as may be to the said John Blakeley, his heirs and assigns.

[Section XXII.] And be it further enacted by the authority aforesaid, That if any person or persons shall wickedly and maliciously cut through and break down or endamage any of the said banks, dams, sluices or floodgates, either [their] own or others, or shall let in any creek or water to annoy, injure or overflow any of their neighbors' lands and shall thereof be convicted before the justices of the court of quarter sessions of the said county of Philadelphia, in all such cases the persons so offending shall be fined treble the value of [all] the damages, to be assessed by two or more indifferent persons to be appointed by the said court to value the same, which fine shall be added to the common stock for the general use and benefit of the said division.

Passed February 15, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the Acts of Assembly passed March 10, 1788, Chapter 1337; April 15, 1834, P. L. 466; April 22, 1841, P. L. 269; March 31, 1843, P. L. 122; April 3, 1851, P. L. 338.

### CHAPTER DXXVI.

AN ACT FOR OPENING AND BETTER AMENDING AND KEEPING IN RE-PAIR THE PUBLIC ROADS AND HIGHWAYS WITHIN THIS PROVINCE.

Whereas an act of the general assembly of this province, entitled "An act for opening and better amending and keeping in repair the public roads and highways within this province," passed in the second year of His present Majesty's reign, is nearly expired. And whereas the laws for keeping in repair the roads and highways that would thereupon come in force again have been found burdensome and unequal upon many of the inhabitants of this province and insufficient to answer the good purposes thereby intended, inasmuch as no provision is made for supplying the overseers and inhabitants working thereon with timber and other materials necessary for making effectual repairs on the said roads.

For remedy whereof:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the freeholders and others qualified to choose members of assembly of every township shall meet together on the third Saturday in the month of March yearly and every year during the continuance of this act, and then and there by tickets in writing, between the hours of two and five in the afternoon, choose one or two discreet and reputable freeholders within their respective townships to be supervisors of the highways, which said supervisors when chosen and returned in writing under the hands of the supervisors of the public roads of the respective

<sup>1</sup> Passed February 17, 1762, Chapter 479.

townships into the office of the clerk of the court of quarter sessions of the respective counties, which they are hereby enjoined to do on or before the twenty-fifth day of March yearly, shall be the supervisors of the public roads and highways for the ensuing year; and if any supervisor or supervisors so elected or otherwise appointed by virtue of this act shall refuse or neglect to take upon him or themselves the said office, for every such refusal he or they shall forfeit and pay any sum not exceeding ten pounds to be applied towards amending and repairing the said roads.

[Section II.] And be it further enacted by the authority afore-said, That the supervisors of the public roads and highways of the respective townships within the several counties of this province shall, at least five days before the third Saturday in March, yearly and every year during the continuance of this act, give public notice in writing by affixing the same in the most public places in their respective townships of the place where the inhabitants and freeholders of the several townships shall meet to elect supervisors for each and every of the said townships according to the directions of this act, which place so appointed for the said election shall be as near the centre of the respective townships as conveniently may be.

[Section III.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said supervisors of the public roads and highways within the respective townships of this province, in conjunction with the assessor of each township lawfully chosen, who is hereby required and enjoined to be assistant therein, under the penalty of forty shillings, to make or lay a rate or rates in any one year not exceeding six pence in the pound on the clear yearly value of the real and personal estates within their respective townships, to be employed for the opening, clearing, amending and repairing the several public roads and highways within their respective townships in such manner as by this act is directed and appointed.

Provided nevertheless, That the said rate or assessment shall be laid according to the best of their skill and judgment and as near as may be to the county assessment for other purposes laid in pursuance of the act, entitled "An act for laying county rates and levies," having due regard to every man's estate within the respective township in which he is assessed without favor or affection to any person whomsoever.

Provided also, That single men shall not be chargeable by the head in such assessment, as in the case of county rates and levies.

[Section IV.] And be it further enacted by the authority aforesaid, That if any supervisor or supervisors of the public roads and highways so as aforesaid chosen shall refuse or neglect to take upon him or themselves the said office or shall die or remove out of the township for which he or they shall be chosen, or if the freeholders and inhabitants of any township shall neglect or refuse to elect or choose supervisors as is hereinbefore directed and appointed, or where any township shall have no supervisor residing in it, then and in every such case it shall and may be lawful to and for three or more justices of the peace of the respective counties, and they are hereby enjoined and required to appoint another supervisor or supervisors in the room and stead of every such supervisor or supervisors so refusing, dying or removing as aforesaid, and likewise to appoint supervisors for such townships as have neglected or refused to choose supervisors for their respective townships in the manner herein directed and appointed, which said supervisor or supervisors so appointed shall have the same powers and authorities and shall be liable to the same penalties as the supervisors so elected and chosen by each respective township in pursuance of the directions of this act, and shall have and receive for his or their trouble in collecting the several sums of money to be raised as aforesaid twelve pence in every pound by him or them collected and four shillings per diem for each day he or they shall attend in overseeing, employing and attending the workmen upon the public roads and highways within their townships.

[Section V.] And be it further enacted by the authority aforesaid, and it is hereby declared, That where any supervisor or supervisors have been legally chosen or appointed by any law heretofore made for repairing the highways, they and each of

<sup>&</sup>lt;sup>1</sup> Passed March 20, 1724-25, Chapter 284.

them shall be deemed and taken as supervisors of the highways for the townships in which they reside respectively as fully and amply to all intents and purposes as if they and each of them had been chosen or appointed by virtue of this act and shall account accordingly; and if any money shall have come to their or any of their hands and shall not have been expended before the passing of this act, the same shall be paid into the hands of the supervisor of the township where it was assessed and raised, to be applied towards maintaining the highways in the said township.

[Section VI.] And be it further enacted by the authority aforesaid, That the said supervisors, before they proceed to the collecting of the said rate, shall procure the same to be allowed by at least two justices of the peace of the county wherein the said tax is laid; and if any person or persons so rated or assessed shall refuse to pay the sum or sums on him or them charged and shall not enter his or their appeal at the next general court of quarter sessions, that then it shall and may be lawful to and for the said supervisor or supervisors (having first obtained a warrant under the hand and seal of one justice of the peace of the county, who is hereby empowered and required to grant such warrant) to levy the same on the goods and chattels of the person or persons so refusing. And in case such person shall not, within three days next after such distress made, pay the sum or sums on him or her assessed, together with the charges of such distress, that then the said supervisor or supervisors may proceed to the sale of the goods distrained, rendering to the owner the overplus, if any, that shall remain on such sale, reasonable charges being first deducted.

Provided nevertheless, That if any person or persons shall find him, her or themselves aggrieved with such rate or assessment, it shall be lawful for the justices of the peace, at their next general quarter sessions, upon the petition of the party, to take such order therein as to them shall be thought expedient, and the same shall conclude and bind all parties; and the supervisor or supervisors in case of such appeal shall forbear making distress until the same be determined in the quarter sessions in the manner hereinbefore directed and appointed.

reimburse the treasurer for the time being the necessary expense thereof, agreeable to the direction of this act, that then and so often it shall and may be lawful to and for the said treasurer by direction of the said manager in his own name to sue all and every such person or persons so refusing or neglecting for the respective sum or sums of money which he, she or they ought to have paid by virtue hereof by action of debt, if five pounds or under before any justice of the peace of the county, or if above five pounds in any court of record where the same may be cognizable, and give this act and the said assessment or the said account as the case may require in evidence; and the said justice of the peace and the said court are hereby empowered and directed to give judgment and grant execution for the same, with costs of suit accordingly, to be levied on the piece or parcel of marsh or meadow land belonging as aforesaid to such owner or owners so neglecting or refusing and delivered unto the manager for the time being, who is hereby empowered and authorized to let out on rent any part of the said meadow belonging to any of the said owners who shall so neglect or refuse or who shall not be found in the county as aforesaid from year to year for so long time as until the rent or rents arising therefrom shall, as nearly as may be computed, pay all such sum or sums of money so assessed or so charged, together with all costs and forfeitures arising thereon, for his or their neglect or refusal to pay the same as aforesaid and no longer.

Provided always, That in letting out the said meadow the said managers do publicly notify the leasing thereof and let the same to the highest bidder at private sale or bargain.

[Section XV.] And be it further enacted by the authority aforesaid, That no process, suit or proceedings whatsoever which at any time hereafter shall be commenced, sued or brought before any of the justices of the peace or judges or justices of the common pleas or Supreme Court or before any magistrate of this province in the name of any treasurer of the said company of the Eastern Division of Boon's Island by direction of the said manager shall be discontinued or put without day by reason of the death, disability or removal of such treasurer,

but shall stand good and effectual in law to all intents and purposes notwithstanding such death, disability or removal.

[Section XVI.] And it is hereby further enacted by the authority aforesaid, That the manager for the time being shall have the power of disposing of all moneys paid to the treasurer by virtue of this act, and of hiring and appointing, at the expense of the said company, any person or persons from time to time to inspect the condition of all the banks, dams, sluices or floodgates belonging to the owners of the said meadow land, and to inform the respective owners or the said manager when any repairs are wanting; and may displace such person or persons and appoint others as often as he shall think fit, and the said manager shall have power to offer and pay such rewards as he may think necessary out of the common stock for the destruction of such vermin as usually damage the said banks and dams as well as for other general services of the said division.

[Section XVII.] And be it further enacted by the authority aforesaid, That the said manager for the time being is hereby authorized and empowered in behalf of the said owners to settle accounts with the treasurer from time to time and shall do and execute all other matters and things pertaining to the general good and benefit of the said owners.

Provided nevertheless, That if any owner or owners shall think him, her or themselves aggrieved by any order, account or proceeding of the said manager, such owner or owners shall, if he or they think proper, choose two fit and disinterested persons and the said manager shall choose two other fit and disinterested persons who, or any three of them, shall finally settle the same and all other matters and things in dispute that shall be referred to them by the said parties.

[Section XVIII.] And be it further enacted by the authority aforesaid, That the orders of the manager on the treasurer for the time being shall be complied with by the said treasurer and shall be good vouchers to indemnify him for the payment and delivery of the money and effects committed to his care by virtue of this act; and that all bonds, mortgages, deeds and conveyances in trust for the use of the said owners shall be taken in the name of the treasurer of the Eastern Division of Boon's

Island and be payable to him and his successors and shall be mentioned to be for the use of the owners thereof, and with or without assignment shall be good and available in law to his successor or successors in the said trust for the use of the owners as aforesaid, and shall be recoverable in any court of record in this province where the same may be cognizable as fully and effectually to all intents and purposes as if the same were private property and duly assigned in all the forms of law. And the receipts and discharges of such succeeding treasurer or treasurers for any such sum or sums of money paid to him or them shall be effectual in law.

And whereas the well draining, preserving and keeping open the drains of the said meadow land is of great importance to the said owners:

[Section XIX.] Be it enacted by the authority aforesaid, That all and every of the said owners shall be allowed, permitted and suffered to discharge all or any of the waters off their respective lands through their natural channels or by a direct course across the land of any other of the said owners as shall by the manager for the time being be judged convenient, into the main channel, creek or sluice best suiting to discharge the same into the main creek, and shall be allowed to open, scour and cleanse the same when and as often as they or the said manager shall think convenient or necessary, any law, usage or custom to the contrary in any wise notwithstanding.

Provided always, That such owner so requiring a passage for water shall first pay all the damages sustained or that shall be sustained by such neighbor through whose land the water is to be discharged and also all such damages as shall be done to the banks within the said neighbor's allotment in such manner and proportion as shall be settled by the said manager.

And the better to procure a constant supply of fresh water in the said Eastern Division and also on that part of the island aforesaid now within bank belonging to John Knowles and the other lands of John Hunt and William Boon for the use of their horses and cattle:

[Section XX.] Be it enacted by the authority aforesaid, That at all times after the draining the said piece or parcel of meadow

land there shall be in the lid or door of each sluice hereafter to be placed at or near the two dams intended to be made across the two creeks aforesaid a hole or passage for the admission of water of such size and dimensions as on trial and experience shall be found effectual and convenient for the [use] aforesaid or for any other useful and beneficial purpose, anything hereinbefore contained to the contrary thereof notwithstanding.

[Section XXI.] And be it further enacted by the authority aforesaid, That the said John Knowles, his heirs and assigns, shall at all convenient times hereafter have the [free] liberty of a road or passage from the road now used to his and Blakeley's island, beginning at the southeast end of a dam over a branch of Three creek, thence by the side of the same and by Three creek aforesaid across the land of the said John Blakeley to the dam hereafter to be made on the same creek for the conveniency of taking and carrying his or their hay, wood, rails, posts and other commodities to and from the said dam, either to be exported from thence or imported there by water, the same road being used with as little injury as may be to the said John Blakeley, his heirs and assigns.

[Section XXII.] And be it further enacted by the authority aforesaid, That if any person or persons shall wickedly and maliciously cut through and break down or endamage any of the said banks, dams, sluices or floodgates, either [their] own or others, or shall let in any creek or water to annoy, injure or overflow any of their neighbors' lands and shall thereof be convicted before the justices of the court of quarter sessions of the said county of Philadelphia, in all such cases the persons so offending shall be fined treble the value of [all] the damages, to be assessed by two or more indifferent persons to be appointed by the said court to value the same, which fine shall be added to the common stock for the general use and benefit of the said division.

Passed February 15, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the Acts of Assembly passed March 10, 1788, Chapter 1337; April 15, 1834, P. L. 466; April 22, 1841, P. L. 269; March 31, 1843, P. L. 122; April 3, 1851, P. L. 338.

#### CHAPTER DXXVL

AN ACT FOR OPENING AND BETTER AMENDING AND KEEPING IN RE-PAIR THE PUBLIC ROADS AND HIGHWAYS WITHIN THIS PROVINCE.

Whereas an act of the general assembly of this province, entitled "An act for opening and better amending and keeping in repair the public roads and highways within this province," 1 passed in the second year of His present Majesty's reign, is nearly expired. And whereas the laws for keeping in repair the roads and highways that would thereupon come in force again have been found burdensome and unequal upon many of the inhabitants of this province and insufficient to answer the good purposes thereby intended, inasmuch as no provision is made for supplying the overseers and inhabitants working thereon with timber and other materials necessary for making effectual repairs on the said roads.

For remedy whereof:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the freeholders and others qualified to choose members of assembly of every township shall meet together on the third Saturday in the month of March yearly and every year during the continuance of this act, and then and there by tickets in writing, between the hours of two and five in the afternoon, choose one or two discreet and reputable freeholders within their respective townships to be supervisors of the highways, which said supervisors when chosen and returned in writing under the hands of the supervisors of the public roads of the respective

<sup>&</sup>lt;sup>1</sup> Passed February 17, 1762, Chapter 479.

townships into the office of the clerk of the court of quarter sessions of the respective counties, which they are hereby enjoined to do on or before the twenty-fifth day of March yearly, shall be the supervisors of the public roads and highways for the ensuing year; and if any supervisor or supervisors so elected or otherwise appointed by virtue of this act shall refuse or neglect to take upon him or themselves the said office, for every such refusal he or they shall forfeit and pay any sum not exceeding ten pounds to be applied towards amending and repairing the said roads.

[Section II.] And be it further enacted by the authority afore-said, That the supervisors of the public roads and highways of the respective townships within the several counties of this province shall, at least five days before the third Saturday in March, yearly and every year during the continuance of this act, give public notice in writing by affixing the same in the most public places in their respective townships of the place where the inhabitants and freeholders of the several townships shall meet to elect supervisors for each and every of the said townships according to the directions of this act, which place so appointed for the said election shall be as near the centre of the respective townships as conveniently may be.

[Section III.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said supervisors of the public roads and highways within the respective townships of this province, in conjunction with the assessor of each township lawfully chosen, who is hereby required and enjoined to be assistant therein, under the penalty of forty shillings, to make or lay a rate or rates in any one year not exceeding six pence in the pound on the clear yearly value of the real and personal estates within their respective townships, to be employed for the opening, clearing, amending and repairing the several public roads and highways within their respective townships in such manner as by this act is directed and appointed.

Provided nevertheless, That the said rate or assessment shall be laid according to the best of their skill and judgment and as near as may be to the county assessment for other purposes laid in pursuance of the act, entitled "An act for laying county rates and levies," having due regard to every man's estate within the respective township in which he is assessed without favor or affection to any person whomsoever.

Provided also, That single men shall not be chargeable by the head in such assessment, as in the case of county rates and levies.

[Section IV.] And be it further enacted by the authority aforesaid, That if any supervisor or supervisors of the public roads and highways so as aforesaid chosen shall refuse or neglect to take upon him or themselves the said office or shall die or remove out of the township for which he or they shall be chosen, or if the freeholders and inhabitants of any township shall neglect or refuse to elect or choose supervisors as is hereinbefore directed and appointed, or where any township shall have no supervisor residing in it, then and in every such case it shall and may be lawful to and for three or more justices of the peace of the respective counties, and they are hereby enjoined and required to appoint another supervisor or supervisors in the room and stead of every such supervisor or supervisors so refusing, dying or removing as aforesaid, and likewise to appoint supervisors for such townships as have neglected or refused to choose supervisors for their respective townships in the manner herein directed and appointed, which said supervisor or supervisors so appointed shall have the same powers and authorities and shall be liable to the same penalties as the supervisors so elected and chosen by each respective township in pursuance of the directions of this act, and shall have and receive for his or their trouble in collecting the several sums of money to be raised as aforesaid twelve pence in every pound by him or them collected and four shillings per diem for each day he or they shall attend in overseeing, employing and attending the workmen upon the public roads and highways within their townships.

[Section V.] And be it further enacted by the authority aforesaid, and it is hereby declared, That where any supervisor or supervisors have been legally chosen or appointed by any law heretofore made for repairing the highways, they and each of

<sup>&</sup>lt;sup>1</sup> Passed March 20, 1724-25, Chapter 284.

them shall be deemed and taken as supervisors of the highways for the townships in which they reside respectively as fully and amply to all intents and purposes as if they and each of them had been chosen or appointed by virtue of this act and shall account accordingly; and if any money shall have come to their or any of their hands and shall not have been expended before the passing of this act, the same shall be paid into the hands of the supervisor of the township where it was assessed and raised, to be applied towards maintaining the highways in the said township.

[Section VI.] And be it further enacted by the authority aforesaid, That the said supervisors, before they proceed to the collecting of the said rate, shall procure the same to be allowed by at least two justices of the peace of the county wherein the said tax is laid; and if any person or persons so rated or assessed shall refuse to pay the sum or sums on him or them charged and shall not enter his or their appeal at the next general court of quarter sessions, that then it shall and may be lawful to and for the said supervisor or supervisors (having first obtained a warrant under the hand and seal of one justice of the peace of the county, who is hereby empowered and required to grant such warrant) to levy the same on the goods and chattels of the person or persons so refusing. And in case such person shall not, within three days next after such distress made, pay the sum or sums on him or her assessed, together with the charges of such distress, that then the said supervisor or supervisors may proceed to the sale of the goods distrained, rendering to the owner the overplus, if any, that shall remain on such sale, reasonable charges being first deducted.

Provided nevertheless, That if any person or persons shall find him, her or themselves aggrieved with such rate or assessment, it shall be lawful for the justices of the peace, at their next general quarter sessions, upon the petition of the party, to take such order therein as to them shall be thought expedient, and the same shall conclude and bind all parties; and the supervisor or supervisors in case of such appeal shall forbear making distress until the same be determined in the quarter sessions in the manner hereinbefore directed and appointed.

[Section VII.] And be it further enacted by the authority aforesaid, That the said supervisors of the public roads and highways of the several townships shall and they are hereby enjoined and required, as often as the said several roads and highways within their respective townships shall be out of repair or as often as any new roads shall be laid out and directed to be opened by lawful authority, to hire and employ a sufficient number of laborers to work upon, open, amend, clear and repair the same in the most effectual manner, and to purchase wood and all other materials necessary for that purpose and to oversee the said laborers and take care that the said roads and highways be effectually opened, cleared, amended and repaired, according to the true intent and meaning of this act.

And in order to enable the said supervisors the more effectually to discharge their duty:

[Section VIII.] Be it enacted by the authority aforesaid, That it shall and may be lawful for the supervisors aforesaid, or any other person or persons by his or their order and direction, to enter upon any lands adjoining to or lying near the public roads and highways within their respective townships, and to cut or open such drains or ditches through the same as he or they shall judge necessary completely to carry off and drain the water from such road, provided the same be done with as little injury and damage as may be to the owner of such lands, which drains and ditches so cut and opened shall be kept open by the said supervisors, if necessary for amending the said road, and shall not be stopped or filled up by the owner or owners thereof or any other person or persons whatsoever under the penalty of five pounds for every such offense.

[Section IX.] And be it further enacted by the authority aforesaid, That the said supervisors shall have full power and authority in any ground or lands adjoining the said public roads and highways within their respective townships to dig, or cause to be dug, any gravel, sand or stones, or to gather any loose stones lying on the said lands, or to cut down any wood or trees growing in any piece or parcel of wood-land adjoining the said roads as he or they shall think necessary for the purposes aforesaid, provided the same be done with as little damage as may

be to the owner or owners of such land, and the same sand, gravel, stones or wood so dug, gathered and cut to carry off without the let, hinderance or control of the owner, he, the said supervisor, paying or tendering to the said owner so much purchase money as they shall agree the same to be worth; and if the said supervisor and owner cannot agree upon the price of the materials so wanted for repairing the roads as aforesaid, then, and in every such case, so much money shall be paid by the said supervisors respectively as any two indifferent freeholders of the township where such public [sic] and highways do lie, to be chosen by the parties, shall estimate and adjudge to be the value of the materials so wanted for repairing the said roads in their respective townships as aforesaid.

[Section X.] And be it further enacted by the authority aforesaid, That if any person working on the highways or being with them, shall ask any money, drink or any other reward whatsoever or shall by any contrivance, ways or means whatsoever extort or endeavor to extort any money or other thing of or from any person passing or traveling upon the said public roads or highways, he shall, for every such offense, pay to the supervisor or supervisors of the said township the sum of three shillings, to be recovered by the said supervisors respectively in a summary way before any justice of the peace and applied for and towards repairing the said roads. And in case any supervisor shall connive at any persons asking and demanding any reward from any traveler as aforesaid, or shall himself extort or endeavor to extort any money or other thing of any traveler as aforesaid every such supervisor shall forfeit and pay for each offense the sum of twenty shillings, to be recovered by any person whatsoever in manner aforesaid, one-half to the use of the prosecutor and the other half to and for the service of the said roads.

[Section XI.] And be it further enacted by the authority aforesaid, That all and every supervisor or supervisors of the public roads and highways within this province who shall be convicted of having refused or neglected to do and perform his or their duty as directed by this act (not otherwise [particularly] provided for) shall be fined and shall pay the sum of five pounds

for every such offense, to be applied towards repairing the public roads and highways within the respective townships where such fines and penalties are incurred.

[Section XII.] And be it further enacted by the authority aforesaid, That at the time and place for choosing a supervisor or supervisors for each township respectively as aforesaid the electors shall and they are hereby enjoined yearly and every year to choose by tickets in writing four capable and discreet freeholders to settle and adjust the accounts of the supervisor or supervisors whose office shall [be] then about to expire; and the person or persons who shall have served the office of supervisor or supervisors for the preceding year shall, on the twenty-fifth day of March yearly, or within six days after, make up and produce fair and clear accounts of all such sums of money by him or them expended on the highways and of all sums of money by him or them received by virtue of any assessment or otherwise and of all fines and penalties due from themselves and others which have come to their hands, which accounts shall be entered in a book to be provided for that purpose and shall be attested on oath or affirmation by such person or persons before any justice of the peace if the said freeholders or any three of them shall require the same, and the said freeholders, or any three of them, shall have full power to adjust and settle such accounts so produced to them as aforesaid, and to allow of such charges and sums only as they shall think to be just and reasonable, and if there shall appear to be any money remaining in the hands of the person or persons who shall have served as supervisor or supervisors as aforesaid, they shall, by order in writing signed by them, or any three of them, direct the same to be paid to the succeeding supervisor or supervisors; but in case such persons shall be found to be in advance for moneys expended and shall have carefully collected the sums of money assessed and imposed by virtue of this act, then the said freeholders, or any three of them, shall in like manner order the succeeding supervisor or supervisors to repay and reimburse the same as soon as a sufficient sum of money shall have come to their hands; and if any person or persons who shall have served the office of supervisor shall neglect or refuse to make up and produce fair and

just accounts as aforesaid, or having made up and produced such accounts shall neglect or refuse forthwith to pay the moneys which he or they shall be ordered as aforesaid, or shall not deliver up the book wherein such accounts shall be entered to their successors, it shall and may be lawful for any justice of the peace, on complaint to him made by the said freeholders, or any three of them, to commit such delinquent or delinquents to the county gaol until he or they shall comply as aforesaid.

Provided always, That if any person shall think himself aggrieved by the settlement of his accounts as aforesaid he may (having first paid over to his successor or successors the balance found to be in his hands) appeal to the next court of quarter sessions, who shall, on the petition of the party, take such order therein and give such relief as to them shall seem just and reasonable, and the same shall conclude and bind all parties.

Provided also, That if any person or persons shall be sued or prosecuted for anything done in pursuance of this act, he or they may plead the general issue and give this act and the special matter in evidence for their justification, and if the plaintiff or prosecutor become nonsuit or forbear prosecution or suffer a discontinuance, or if a verdict pass against him in such action or suit, the defendant shall have treble costs, to be recovered as in cases where costs by law are given to defendants, and no such suit or prosecution shall be maintained unless it be commenced within six months after cause given, nor unless security be first given for the charges.

[Section XIII.] And be it further enacted by the authority aforesaid, That so much of the act of general assembly of this province made in the twelfth year of the reign of His Majesty King William the Third, entitled "An act for erecting bridges and maintaining highways," as directs every overseer of the highways to summon all the inhabitants of his respective precinct as from time to time he should see occasion to come to such place or places as he should appoint, and so much of the said act as directs the inhabitants so summoned to attend and work upon the said highways shall be and such parts of the said act are hereby repealed and made void.

[Section XIV.] And be it further enacted by the authority

aforesaid, That one other act of general assembly of this province, entitled "An additional act for the better preserving the highways," passed in the fourth year of the reign of Her late Majesty, Queen Anne, and every part thereof, shall be and is hereby repealed and made void.

[Section XV.] And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of five years and from thence to the end of the next sitting of assembly and no longer.

Passed May 18, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed February 17, 1762, Chapter 479; and the Acts of Assembly passed September 29, 1770, Chapter 614; March 9, 1771, Chapter 624; March 21, 1772, Chapter 653. Expired.

## CHAPTER DXXVII.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT FOR THE PROHIB-ITING THE IMPORTATION OF GERMANS OR OTHER PASSENGERS IN TOO GREAT NUMBERS IN ANY ONE VESSEL." 1

Whereas the transportation of German passengers from Europe hither on freight is found by experience to require some further provision and regulation than is already made by the said act.

Therefore, and to the end that the salutary purposes for which the said act was made may be the better obtained and that the freight moneys that shall justly become due to the merchants and owners of ships that may be employed therein may be secured to them with as much ease as may be to the passengers:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of

<sup>1</sup> Passed November 27, 1700, Chapter 57.

<sup>&</sup>lt;sup>2</sup> Passed January 12, 1705-6, Chapter 156.

<sup>1</sup> Passed January 27, 1749-50, Chapter 381.

the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the room to be made for each such passenger which by the said act is limited as to its length and breadth shall under the penalty in the said act expressed be also of the height of three feet nine inches in the fore part of the ship between decks and two feet nine inches at least in the cabin and steerage, and that no more than two whole freight passengers shall be put together in one bedstead or division except in case a father or mother shall desire to have their or any of their children in the same bedstead or division.

[Section II.] And be it further enacted by the authority aforesaid, That the master of each vessel carrying such German passengers shall provide an able and well recommended surgeon and a chest with a complete assortment of medicines on board of his vessel for the use and accommodation of the passengers at the charge of the owner or owners of the vessel, under the penalty of one hundred pounds, provided such vessel shall have or receive the number of fifty whole freights, which medicines shall be administered by the said surgeon to any such passenger or passengers on board of said vessel as often as occasion may require, without his demanding any pay or satisfaction from the said passengers for the same, and that every such master shall, twice in every week during the voyage, cause the said vessel to be thoroughly smoked by burning tar between decks if the same can be done without injury to such of the passengers as may happen to be sick and languishing from time to time, and shall also twice in every week during the voyage cause the said vessel to be well washed with vinegar, and for these purposes shall and may compel such passengers as are able to come on deck while it is performed.

[Section III.] And be it further enacted by the authority aforesaid, That no master, purser or other person on board of any such vessel shall retail or sell unto said passengers at a greater price than fifty per centum profit upon the first cost any wine, brandy, rum, geneva, cordials, beer, cider or other

spirituous liquors, or any grocery, spices or other necessaries for sick persons, and that no passenger on board any such vessel shall be trusted by any person or persons with more liquor or other things as aforesaid than to the value of thirty shillings current money of this province in the whole during the voyage. of which sum not more than one-third part shall be for spirituous liquors, and that every master, purser and other person on board such vessel who shall retail to the said passengers, or any of them, any of the aforesaid articles at greater prices for the same or in greater quantities than as aforesaid, and on his arrival in this province shall be convicted in any court of record of any such offense, shall be fined in the sum of five pounds, and if any passenger shall be trusted for more than thirty shillings as aforesaid during the voyage by any one person or by different persons for several smaller sums amounting in the whole to more than thirty shillings as aforesaid, all such persons shall be disabled from recovering any debts for all or any such articles from any such passengers.

[Section IV.] And be it further enacted by the authority aforesaid, That the officer appointed by law to execute the said act to which this act is a supplement or his deputy shall, on visiting any vessel importing German passengers, take with him a reputable German inhabitant of the city of Philadelphia well versed in the English and German languages to be his interpreter, who shall be recommended or approved of by the mayor and recorder of the said city for the time being for that service, and shall first take a solemn oath or affirmation according to law before one of the magistrates of the said city to the effect following:

"That he will well and truly interpret into English and German between the said officer and passengers and also well and truly execute and perform all the duties of an interpreter agreeable to the directions of this act to the best of his skill and ability."

And going on board the said vessel the said interpreter shall call together the passengers and in a loud and audible voice in the German language declare and proclaim to them that the officer appointed by law to execute the aforesaid act and this supplement thereof is present and shall read to the said passengers a true, clear and intelligible translation in the German language of such paragraph or paragraphs in the aforesaid act and this supplement thereof contained as do concern the duties of the said officer and interpreter and the several matters of which they are to make inquiry, and afterwards the officer shall, by his said interpreter, proceed to make his inquiry in such manner as by the said act and this supplement thereof is directed.

[Section V.] And be it further enacted by the authority aforesaid, That any master of such vessel who, at any time from and after the first day of November next, shall, at any port of Europe, take in German passengers with an intent to transport them into this province shall, under the penalty of ten pounds current money of this province, give or cause to be given unto each of such passengers a bill of lading in the common form for all such chests, trunks, crates, bales, casks and other packages belonging to such passengers as they require no access to during the voyage, and shall be put into the hold of the same vessel wherein he or she is a passenger or in any other vessel by the master or merchant hired to carry the goods of such passengers, but for all goods which the passengers shall have between decks or in their own charge the master shall not be obliged to give them bills of lading or be answerable for any loss, damage or embezzlement of the same.

And forasmuch as German passengers are usually ignorant what goods are prohibited to be imported into His Majesty's plantations or not prohibited and what are subject to customs or custom free, the master of such vessel, when he touches at any port of Great Britain to clear out shall, on behalf of such of his passengers as have any goods on board of his vessel subject to pay duties, inform the officers of His Majesty's customs thereof and take out a cocket for all such goods as shall come to his knowledge at the charge of the passenger to whom such goods belong upon such passenger's paying the accustomed duties for the same, to the end that such goods by the ignorance of the passengers may not be forfeited. And if any master of such vessel shall neglect to enter on the terms aforesaid with

the proper officer any of the goods belonging to such passengers subject to pay custom and coming to his knowledge as aforesaid so that such goods shall be seized and forfeited through such his neglect, the master shall be liable to make good to such passenger all the loss and damages which he shall suffer by any such seizure or forfeiture, with costs of suit.

[Section VI.] And be it further enacted by the authority aforesaid. That every such passenger at his or her arrival in this province, on paying or tendering to the owner or master of such vessel for his or her freight, if a single person, or if married or having children for his or her own and family's freight, the full sum for which he or she agreed in Europe, either in the coin or species in his or her contract mentioned, or the value thereof in lawful money of Pennsylvania as such species or coin shall be then current here, shall be immediately discharged from such vessel, and all his or her goods and effects on board thereof to him or her in good order delivered on shore without any further cost or charge of landing them; and that any master of such vessel or merchant refusing to accept of such tender and to put on shore the person by whom or on whose behalf such tender was made, with all his or her goods on board such vessel, shall be liable to be sued in an action of trover and conversion or of false imprisonment, as the case may require.

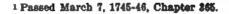
[Section VII.] And be it further enacted by the authority aforesaid, That from the time every such vessel shall have put to sea all the goods of such passengers on board thereof as have not paid for their passages at the place from whence they sailed shall stand a lawful pledge for the freight money of such passengers until the same shall be fully paid and satisfied and it shall and may be lawful to and for the owner or owners of such vessel and their factors at any time within thirty days after the arrival of such passengers in this province to apply to any two magistrates or justices of the peace for the city or county where such passengers shall be landed for an execution against the goods of such passengers, and the said magistrates or justices are hereby empowered and required to issue a summons directed to a constable of the place where the defendant liveth to summon such defendant to appear before them on some certain day

therein to be expressed not less than five nor exceeding eight days from the date of such process, to show cause why such exe cution should not be granted, and at the time appointed, the said magistrates or justices, having heard the proofs and allegations of the parties, shall give judgment thereon or at the request of the parties appoint auditors, or if the defendant cannot be found [or] doth not appear, give judgment for the freight money that shall appear to be due and award execution against the goods and chattels of such defendant and with such costs of suit as in and by an act of this province, entitled "An act for the more easy and speedy recovery of small debts," is directed, any law or usage to the contrary notwithstanding.

[Section VIII.] And be it further enacted by the authority aforesaid, That no master or owner of such vessel nor any merchant shall charge the freight of any passenger dying on the voyage or otherwise not actually transported hither to his or her surviving relations, and that no passenger being actually transported from Europe into this province shall be compelled, against his or her will, to pay or make good by service all or any part of the freight of his or her relations with him or her transported, except a man who is to pay for his wife and children so dying or actually transported and not otherwise.

Provided always, That if the person so dying or actually transported shall have a child or children on board such vessel, the said child or children may be charged with the freight of his or their father or mother and bound out to service for the payment thereof to the age of twenty-one unless the same can be raised by their service for a shorter term.

[Section IX.] Provided also and be it further enacted by the authority aforesaid, That if any child or minor shall at the time of his or her said importation be of such an advanced age that his or her service until he or she arrives to the age of twenty-[one] years shall not be equal and sufficient to pay and discharge the money due for his or her own freight or passage, then and in such case he or she shall and may be bound to serve for the same until the age of twenty-four years and no longer, unless







the said money can be raised by his or her service for a shorter time, any law, usage or custom to the contrary notwithstanding.

[Section X.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the masters or owners of such vessels or their factors here to keep and detain any such passengers who are unable to pay for their freight on board the same vessel wherein they shall come passengers for the space of thirty days next after their arrival in order that they may have time to find out relations or friends who may discharge their freight or to agree with some person or persons who shall be willing to pay the same in consideration of their servitude for a term of years, agreeable to custom; and that the masters of all such vessels, under the penalty expressed in the aforesaid act to which this is a supplement shall during the said term of thirty days well and sufficiently provide for all and every of the passengers so retained and kept on board such vessels as aforesaid good and wholesome meat and drink and other necessaries for passengers at the proper cost and expense of the owners of such vessels. But if any such passengers shall continue on board any such vessels after the expiration of the aforesaid term the masters of such vessels shall provide for such passengers all necessaries as aforesaid at their expense, charging the same to such passengers' account, to be added to and recovered together with their freights and shall remove ashore all sick persons whose diseases are not infectious and women near their time of labor to some convenient house and provide them with necessary accommodations and nursing, charging the expense to such passenger's account, to be added to and recovered with their freights, but for such sick persons as cannot be removed without danger, the masters of such vessels may make as convenient room and accommodations on board such vessels as the circumstances will admit of or as the mayor or recorder, or any two justices of the peace, upon application or complaint made, shall order and direct.

[Section XI.] And be it further enacted by the authority aforesaid, That the officer appointed for executing the aforesaid act, or his deputy, with the interpreter aforesaid shall, at least once in every week, go on board every such vessel having pas-

sengers to examine whether they are accommodated agreeable to the direction of this act.

[Section XII.] And be it further enacted by the authority aforesaid, That no owner or owners of any such vessels or any other person or persons for him or them or on his or their behalf under any pretense whatsoever shall take any bill, bond, note or other specialty or instrument of writing whatsoever from any such passenger nor make any contract with any such passenger while on shipboard or after his arrival here to compel him or her to pay for the freight of another passenger except in the cases hereinbefore mentioned, and that all such bills, bonds, notes, specialties, instruments and contracts shall be utterly null and void.

Provided always, That if any such passenger, after having discharged his or her own freight, shall be willing to enter into a joint obligation with any other passenger or passengers remaining in debt for his, her or their freight, such obligation shall be good and valid in law.

[Section XIII.] And be it further enacted by the authority aforesaid, That the master of any such vessel importing passengers or the merchant or merchants to whom any such vessel shall be consigned permitting any such passengers to go on shore from such vessel and retaining either on board or in some store or other place all or any of the goods belonging to such passengers for security of the payment of his or her freight shall be obliged, under the penalty of five pounds, to give unto such passenger a certificate specifying the goods and the sum for which they are so retained as aforesaid, with the time and terms in and on which they may be redeemed by the payment of the freight money and the interest thereof, and that no passenger shall be obliged to pay any storage for goods so retained as aforesaid.

[Section XIV.] And be it further enacted by the authority aforesaid, That every indenture whereby any such passenger shall be bound to serve his or her master or mistress shall be acknowledged before the mayor or recorder of the city of Philadelphia, who shall keep an exact record thereof, and in such record shall clearly express the province, county, city, borough



or township wherein such master or mistress resides, and the said mayor and recorder in the said city and every justice of the peace in the several counties of this province in whose presence any assignment on such indenture may be made shall, in like manner, keep a record of the place of the assignee's abode.

[Section XV.] And be it further enacted by the authority aforesaid, That no master or owner of any such vessel shall separate any husband and wife who come passengers in any such vessel by disposing of them to different masters or mistresses but by mutual consent of such husband and wife, and that every such master or owner of any such vessel or other person who shall separate an husband from his wife except in manner aforesaid shall forfeit twenty pounds to the husband, to be recovered in any court of record by bill, plaint or information, and every such indenture shall be void and of no effect.

[Section XVI.] And be it further enacted by the authority aforesaid, That all actions to be commenced against any master or owner of any such vessel or other person by virtue of this act or the said act to which this is a supplement shall be brought within two months next after the arrival of any such vessel in this province.

[Section XVII.] And be it further enacted by the authority aforesaid, That the fee of the interpreter aforesaid shall be, for his first going on board of every such vessel as aforesaid, twenty shillings, and for every time afterwards ten shillings, which shall be paid by the importer and charged upon the passengers with their head money.

[Section XVIII.] And be it further enacted by the authority aforesaid, That the several penalties and forfeitures by this act imposed shall be recovered in the same manner, except herein otherwise provided, and shall, unless herein otherwise disposed of, go and be applied to the same uses as the fines and forfeitures imposed in and by the aforesaid act to which this is a supplement.

Passed May 18, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed January 27, 1749-50, Chapter 381.

#### CHAPTER DXXVIII.

AN ACT TO ENABLE THE INHABITANTS OF THE BOROUGH OF LAN-CASTER, IN THE COUNTY OF LANCASTER, TO RAISE MONEY ON THEMSELVES FOR SUPPORTING A NIGHTLY WATCH IN THE SAID BOROUGH AND FOR OTHER PURPOSES THEREIN MENTIONED.

Whereas great advantage and benefit would arise to the inhabitants of the borough of Lancaster were they enabled by law to raise a public tax on themselves for supporting a nightly watch in the said borough and for such other public uses as would be of general utility to the inhabitants thereof:

[Section I.] Be it therefore enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the inhabitants and freeholders of the said borough who, by virtue of the charter of the said borough, are qualified to elect or be elected burgesses of the said borough, shall meet at the time and place by the said charter appointed for electing burgesses, assistants, high constable and town clerk for the said borough and then and there by ballot shall or may choose three of the said inhabitants or freeholders to be assessors of the said borough, and when so chosen the high constable of the said borough shall take their names in writing, under the hands and seals of six or more of the said inhabitants and freeholders. and return or certify the same into the office of the clerk of the general quarter sessions of the peace for the county of Lancaster within ten days next after the said election.

[Section II.] And be it further enacted by the authority aforesaid, That the burgesses and at least two of the assistants of the said borough, together with the said assessors, shall, on or before the fifteenth day of November yearly and every year, calculate what sum or sums of money may be needful and necessary

to be raised on the persons and estates aforesaid from time to time for building, repairing or amending any bridges, streets, alleys, watercourses, pumps, and for regulating the nightly watch or for other uses for the public service and benefit of the said borough; and shall also agree and settle from time to time, as occasion may require, what sum or sums of money shall be applied to every particular matter or thing which the said burgesses and a majority of the assistants, with any two of the said assessors, shall agree to be necessary to be raised for the ensuing year, which said respective sums, with the particular uses whereunto they shall be agreed upon to be appropriated as aforesaid, shall be entered in a book to be kept for that purpose by the town clerk of the said borough, who is hereby obliged to make such entry from time to time, for which he shall be allowed what the burgesses, assistants and assessors of said borough, or the majority of them, shall think reasonable; and that the said assessors shall, within six weeks after every such calculation, make or lay a rate or assessment upon themselves and all other persons and estates aforesaid to and for the uses aforesaid by pound rate, according to the manner and method now used in making assessments in this province for raising of county levies.

[Section III.] And be it further enacted by the authority aforesaid, That the said burgesses, two of the assistants and two of the said assessors shall by virtue of this act have power and authority to apply the moneys raised by this act to all or any of the uses and purposes aforesaid as they shall think most advantageous and of the greatest public use and benefit of and to the said borough.

[Section IV.] And be it further enacted by the authority aforesaid, That the said borough shall be and is hereby divided into four wards in manner following: That is to say, all that part of the said borough to the north of King street and to the east of Queen street shall be called King's ward; and all that part of the said borough to the north of King street and to the west of Queen street shall be called Queen's ward; and all that part of the said borough to the south of King street and east of Queen street shall be called Prince's ward; and all that part

of the said borough to the south of King street and west of Queen street shall be called Duke's ward.

[Section V.] And be it further enacted by the authority aforesaid. That the inhabitants and freeholders aforesaid in their respective wards shall, on the day appointed by law for choosing inspectors in this province, meet at some convenient place in each of the said wards, to be appointed by the constable of the said ward, and then and there choose, by ballot, a fit and proper person residing within the said wards respectively to be constable of the said wards respectively in the presence of the constable of each ward for the year ensuing; and in the meantime and until such election shall be made Abraham Myer, John Cross, Henry Dehuff and Frederick Tombaugh are hereby nominated and appointed constables of said wards: That is to say, Abraham Myer for King's ward, John Cross for Queen's ward, Henry Dehuff for Prince's ward and Frederick Tombaugh for Duke's ward, and John Hopson, Christopher Crawford and Caleb Shewart, assessors.

Provided always, That no constable chosen or appointed as aforesaid shall be obliged to serve more than one year during the continuance of this act, anything herein contained to the contrary notwithstanding.

[Section VI.] And be it further enacted by the authority aforesaid, That the constables of the said wards respectively shall bring in returns in writing to the said assessors within five days after notice given them of the names and estates of all persons within their wards aforesaid, for which they shall be allowed two pence per pound upon every sum assessed in their respective wards, which assessment being equally and impartially laid and signed by two of the said assessors and allowed and confirmed by the burgesses of the said borough for the time being under their hands and seals, shall be paid by every person and estate so assessed upon demand thereof after the day of appeal hereinafter mentioned by the collector, who shall, by the said assessors, or in case they neglect, then by the burgesses, be appointed to collect the same; and in case of refusal or neglect shall by warrant under the hand and seal of either of the said burgesses be levied by distress and sale of the goods of every person so assessed and not paying the same within ten days after demand, rendering the overplus, if any, of the amount of sales of the goods so distrained and sold to the owner thereof, deducting the charges of such distress and sale, but for want of distress the said assessment to be levied by imprisonment of the person so refusing [or neglecting] to pay as aforesaid.

Provided always, That no such assessments to be made in one year shall exceed the value of four pence nor be less than three pence in the pound of the clear value of the lands, tenements, hereditaments and personal estate so assessed.

[Section VII.] And be it further enacted by the authority aforesaid, That the said assessors shall appoint a treasurer in the said borough, who shall keep a distinct book containing a particular account of the rates and disbursements made as aforesaid, as also all disbursements and payments which he shall make by order of the said burgesses, two of the said assistants and two of the said assessors, whose order to the said treasurer from time to time shall be sufficient for the payment of such moneys as shall come into his hands from the said collector.

[Section VIII.] And be it further enacted by the authority aforesaid, That the said treasurer shall, on the first Monday of September yearly, or oftener if occasion be, bring in his accounts and settle and make them up before the said burgesses, two of the said assessors and at least two of the said assistants or such as they shall appoint, at the auditing of which accounts all or any of the inhabitants and freeholders that are willing may be present; and the said treasurer shall have for his trouble therein as much as the said burgesses, two of the said assessors and at least two of the said assistants shall agree to allow him; and the said assessors shall be allowed two pence in the pound for all the sums levied and collected by virtue of this act.

[Section IX.] And be it further enacted by the authority aforesaid, That the money gathered and received by the said collector by virtue of this act shall from time to time be duly paid to the treasurer, whose receipts shall be the collector's discharge; and the said treasurer shall from time to time signify in writing to the said assessors how much the collector brings in and pays as aforesaid; and when the said collector is negligent

or refuses to do his duty in the premises the treasurer is hereby required forthwith to signify the same by way of complaint to the assessors aforesaid.

[Section X.] And be it further enacted by the authority aforesaid, That before the said treasurer enters upon the execution of his office, he is hereby required to give a bond, with one or more sufficient sureties, to the burgesses and inhabitants of the borough of Lancaster, in the county of Lancaster, and their successors, in the penalty of three hundred pounds lawful money of this province, with condition to pay all such moneys as shall come into his hands by virtue of this act according to the orders to be given to him as aforesaid from time to time and not otherwise, and for the due performance of his duty in the trust hereby committed to him, and that in case of his death or removal from the said office he, the said treasurer, his executors or administrators, shall and will, within one month after such death or removal, deliver over to the succeeding treasurer all books, accounts and papers belonging to the said office whole, entire and undefaced, and also settle the accounts of his said office and pay to the said succeeding treasurer within the time aforesaid such balance or sums of money as may be due to the said corporation at the time of his death or removal aforesaid.

[Section XI.] And be it further enacted by the authority aforesaid, That if the said treasurer shall refuse or neglect to do his duty as by this act is required, he shall be removed from his said office by the said assessors, with the consent of the said burgesses, and in case of such removal or if the said treasurer shall happen to die, the said assessors and burgesses, or the major part of them, shall appoint another in his place, who shall give security as is hereinbefore directed.

Provided always, That the said collector shall forthwith after every such assessment made as aforesaid give notice to the said freeholders and inhabitants of the said borough or, in their absence, to some one of their families or neighbors of the respective sums they are rated, and acquaint them with the day and place of appeal in case they shall be aggrieved by such assessment, which said appeal shall be heard at some convenient place in the said borough to be appointed by the assessors that laid the

said tax within two weeks after the said assessment is laid, and on the said day of appeal the burgesses shall hear all appeals and thereupon diminish or add to such assessment as to them shall seem just and reasonable, taking notice of such estates as they may find omitted in the said assessments in order to rectify the same.

[Section XII.] And be it further enacted by the authority aforesaid, That from and immediately after the said appeals have been heard and considered as aforesaid, it shall and may be lawful for the said collector and he is hereby required to proceed in collecting and levying the said rates and assessments, for the collecting whereof he shall retain and keep in his hands six pence in the pound of all such money as he shall so collect and no more; and if the said collector shall refuse or neglect to collect the said assessments respectively, or any part thereof, and pay the same unto the treasurer within two months after the said appeals have been heard and considered as aforesaid, every collector so refusing or neglecting shall forfeit and pay to the said treasurer for the use of the said borough the sum of five pounds, and shall also pay all the arrearages of such assessments which he was appointed to collect, which shall be levied by warrant under the hands of the burgesses for the time being and the seal of the said borough, directed to the sheriff, who is hereby empowered and obliged to execute such warrant upon the goods and chattels of the party so offending and make sale thereof; and in case goods and chattels sufficient to make satisfaction cannot be found, then to imprison such offender until payment be made, and every collector being so distrained on and having made full satisfaction as aforesaid is hereby empowered, without any other warrant, to distrain for his own use upon all such as shall refuse or neglect to pay the said arrearages.

[Section XIII.] And be it further enacted by the authority aforesaid, That the said assessors, before entering on the execution of their office, shall take the following oath or affirmation, to wit:

"That they will well and truly cause the rates and sums of money by this act imposed to be duly and equally assessed and laid out, to the best of their skill and knowledge, and therein will spare no person for favor or affection nor grieve any for hatred or ill-will; and that they and each of them, the said assessors, will diligently attend and faithfully execute the said office during the term of their continuance therein according to the best of their abilities and judgment."

And that the said constables, before entering on their said offices, shall take the following oath or affirmation, viz.:

Which qualifications any of the said burgesses have power and are hereby enjoined to administer when required.

[Section XIV.] And be it further enacted by the authority aforesaid, That if at any time the freeholders and inhabitants aforesaid of the said borough shall neglect to choose assessors or constables as aforesaid, or if, when chosen, they do not attend their respective offices above directed, then the burgesses and assistants for the time being may and shall nominate and appoint assessors and constables, who may and shall perform the respective offices and duties of the said assessors and constables as fully and amply as assessors and constables are hereinbefore empowered and directed to do.

[Section XV.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the burgesses, assistants and assessors of the said borough, or the majority of them, as soon as they shall think proper, to erect, put up and fix lamps in such parts and places of the said borough as to them shall seem meet and expedient, and to contract with any person or persons for the lighting, trimming, snuffing, supplying, maintaining and repairing them; and shall likewise order, appoint, hire and employ what number of watchmen they shall judge necessary and proper from the time of their first meeting together after the publication of this act for one whole year, and shall or may then and there direct and order what wages shall be paid them; and if any of the said watchmen so by them hired and appointed shall happen to die within the time for which they were appointed or shall be negligent in his or their duty or be guilty of any misbehavior, it shall and may be lawful for the



burgesses, assistants and assessors aforesaid, or a majority of them, at any intermediate time of the year, to remove any of the said watchmen so appointed and to employ, hire and appoint one or more person or persons fitly qualified in the room and stead of him or them so dying, neglecting or misbehaving as aforesaid.

[Section XVI.] And be it further enacted by the authority aforesaid, That the burgesses and assistants of the said borough, together with the said assessors to be elected or appointed by virtue of this act, or a majority of the whole, shall, as soon as conveniently they can, direct and set down in writing at what stands it is fit for the said watchmen to be placed, how often they shall go the rounds, and also appoint the bounds each watchman is to go and order what constable of the borough shall watch each night, and shall from time to time make such further orders and regulations for the better government of the said constables and watchmen as the nature of each particular service shall seem to require.

[Section XVII.] And be it further enacted by the authority aforesaid, That the constables and watchmen respectively shall be furnished with true copies of all orders and regulations which shall from time to time be made as aforesaid for the better direction and government of the said constables and watchmen, fairly written or printed, and signed by the said burgesses, two assistants and two assessors.

[Section XVIII.] And be it further enacted by the authority aforesaid, That one constable or watchman shall attend at the court house of the said borough and shall keep watch and ward in manner following: That is to say, from the tenth day of the month called March to the tenth day of September in every year from the hours of ten in the evening until four the next morning, and from the tenth day of September to the tenth day of March in every year from nine in the evening until six in the morning; and the said constables and watchmen shall, in their several turns and courses of watching, use their best endeavors to prevent fires, murders, burglaries, robberies and other outrages and disorders within the said borough; and they are hereby empowered and required in their several stations during the time

of their keeping watch and ward as aforesaid to apprehend all night walkers, malefactors, rogues, vagabonds and disorderly persons whom they shall find disturbing the public peace or shall have just cause to suspect of any evil design and negroes absent from their master's or mistresses' houses and to take the person or persons so apprehended as soon as conveniently may be before one of the burgesses or any justice of the peace of the county residing in the said borough to be examined and dealt with according to law; and the constable and watchmen aforesaid shall be at their respective stands to be appointed as aforesaid and shall keep watch and ward at the hours and during the time hereinbefore mentioned and shall observe, perform and execute all such matters and things as by the rules, orders and regulations of the burgesses, assistants and assessors aforesaid shall be from time to time made and enjoined them upon and concerning the matters aforesaid according to the directions of this act: and in case of any fire breaking out or other great necessity shall immediately alarm each other and the inhabitants in their respective bounds, which, when done, they shall repair to their respective stands the better to discover any other fire that may happen, as well as to prevent any burglaries, robberies, outrages and disorders, and to apprehend any suspected persons who, in such times of confusion, may be feloniously carrying away the goods and effects of others.

[Section XIX.] And be it further enacted by the authority aforesaid, That if any person or persons shall and do after the publication of this act willfully or maliciously break, throw down or extinguish any lamp that is or shall be hung up or set up to light the streets and alleys in the said borough or shall willfully damage the post, iron or furniture thereof or any sentry box, every person so offending therein and being convicted by the lawful testimony of one or more witnesses before any one of the burgesses or justices of the peace residing in the said borough shall forfeit and pay the sum of forty shillings for each lamp so broken, thrown down, extinguished or otherwise damaged, or for each post, iron or other furniture thereof or sentry box so damaged or broken; and if any person or persons shall accidentally break, throw down or extinguish any of the



lamps or posts, iron or furniture or sentry box as aforesaid, and, having so done, shall fail of giving notice thereof to one of the burgesses or justices aforesaid within four-and-twenty hours from the time of the damage, every person so failing to give notice shall be liable to the same fine and forfeiture as if the offense was willful or malicious; but if timely notice be by him, her or them given as aforesaid, he, she or they shall only pay such costs and damages as in the judgment of two of the assessors will fully repay the damage done, anything herein contained to the contrary notwithstanding.

And whereas the having a sufficient number of pumps situated in the streets and alleys and keeping them in due order and repair may be of great use in extinguishing fires which may happen within the said borough:

[Section XX.] Be it further enacted by the authority aforesaid, That the burgesses, assistants and assessors to be chosen or appointed as aforesaid are hereby authorized and empowered to dig wells and therein fix pumps in such convenient places as to them shall appear necessary in the streets or public alleys within the said borough, and dig, support and maintain them out of the moneys arising by virtue of this act.

And to prevent the pumps in the streets of the said borough being neglected and suffered to lie out of repair by their respective owners, the said burgesses, assistants and assessors, or a majority of them, are hereby further authorized and empowered, when they shall think proper, to agree with the owner or owners for all or any of such pump or pumps as are already fixed in the streets or alleys within the said borough and after such agreement made with the respective owner or owners thereof, such pump or pumps shall forever after become the property of and belong to the corporation to be maintained and kept in repair at the public charge.

[Section XXI.] And be it further enacted by the authority aforesaid, That the burgesses and assessors shall and they are hereby authorized and enjoined to inquire into the condition and take care of the repair of the several pumps within the streets or public alleys of the said borough, and if, after due inquiry, it shall appear to them on the evidence of two or more witnesses

that any of the said pumps have been out of repair for the space of three months next after notice thereof given by one of the burgesses to the owner or owners of the said pumps, then and in such case every such pump or pumps shall forever after become and be the property of the corporation, to be maintained at the public charge; and every such owner or owners of such pump or pumps within the said borough as shall duly maintain and keep them in good order and repair to the satisfaction of one of the burgesses and two of the assessors shall be allowed the sum of six shillings yearly, to be paid them, the said owners, out of the moneys arising by this act; and if any person or persons shall and do, after publication of this act, willfully and maliciously break or carry away the handles of any of the pumps within the said borough or otherwise injure and damage the same, every person so offending and being thereof convicted by the lawful testimony of one or more witnesses before one of the burgesses or justices aforesaid shall, for every offense, forfeit and pay the sum of five pounds for each pump so broken or damaged.

[Section XXII.] And be it further enacted by the authority aforesaid, That if any of the said constables or others so as aforesaid elected or appointed shall refuse to serve or after taking on themselves the office, shall willfully neglect his duty as aforesaid or shall depart from the duty hereinbefore enjoined him by virtue of this act, in each and every of the said cases the person or persons so offending shall respectively forfeit the sum of five pounds for every such offense.

[Section XXIII.] And be it further enacted by the authority aforesaid, That all the penalties (except where particular provision is by this act made for the recovery thereof) shall be recovered before one of the burgesses of the said borough or any justice of the peace for the said county residing within the said borough, under the hand and seal of such burgess or justice, to any canstable of the said borough directed, who is hereby empowered and required to execute the same by distress and sale of the goods of the party or parties so offending, and where goods and chattels cannot be found sufficient the offender shall

be committed to the county gaol, there to remain until payment be made.

[Section XXIV.] And be it further enacted by the authority aforesaid, That if any negro slave be convicted of incurring any of the fines and penalties mentioned in this act, he, she or they shall, for the first offense, be whipped on the [bare] back with twenty-one lashes at the public whipping post and kept at hard labor in the house of correction three days, and for the second and every other offense shall receive thirty-one lashes and be kept six days at hard labor as aforesaid, unless the master or mistress of such slave will pay the fine or fines hereby inflicted.

[Section XXV.] And be it further enacted by the authority aforesaid, That if any minor, bound servant or apprentice be convicted of incurring any of the penalties or damages mentioned in this act, every such minor, bound servant or apprentice shall be committed to the house of correction and kept to hard labor for any space of time not exceeding ten days, unless the parent, guardian, master or mistress of such offender or offenders will pay the damages or penalties aforesaid.

Provided always, That no person or persons shall be sued or prosecuted for neglect in the execution of this act unless he, she or they be sued or prosecuted within three months after such offense committed.

[Section XXVI.] And be it further enacted by the authority aforesaid, That in case there shall be any deficiency in any one year's rate or assessment so to be made as aforesaid, so that all the wages to watchmen and other debts made and contracted for the purposes in this act mentioned with the incident charges cannot be fully paid and satisfied in that year, then and in that case the deficiency so happening shall be paid out of the next succeeding year's rate and assessment; and if there shall not be then sufficient, then the next year's and so from year to year until it shall be paid. And if there shall be any surplus money collected by such rate and assessment in one year, such surplus shall be carried on to the credit of the account of the next year's rate and assessment, to be applied to such use and in such manner as the rates and assessments to be collected as aforesaid

are by this act directed and permitted to be laid out and applied.

[Section XXVII.] And be it further enacted by the authority aforesaid, That this act shall continue for the space of three years and from thence to the end of the next sitting of assembly and no longer.

Passed September 20, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII. Repealed by the act of Assembly passed February 8, 1766, Chapter 541.

### CHAPTER DXXIX.

AN ACT FOR THE MORE EASY RECOVERY OF LEGACIES.

Forasmuch as the laws of this province relating to the recovery of legacies are some time since expired, and as the said laws when in force were found necessary and beneficial:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act it shall and may be lawful for any person or persons to whom any legacy or bequest of any sum or sums of money or other goods or chattels have been or may be made by the last will and testament of any other person or persons legally made, to commence, sue and prosecute an action of debt, detinue or account render, as the case may require, for such legacy after it becomes due in any of the county courts for holding of pleas in any of the counties within this province; and if it shall appear that the legacy or legacies is or are due and there be sufficient assets in the hands of the exacts

ecutors or administrators with testaments annexed to discharge the just debts of the testator and the legacy or legacies bequeathed, the plaintiff or plaintiffs shall recover, with costs of suit, any law, usage or custom to the contrary notwithstanding.

Provided always, That where it shall so happen that there are assets in the hands of any executors or administrators with testaments annexed to discharge all the debts of the testator, with an overplus not sufficient to discharge all the legacies which may be given, then an abatement shall be made in proportion to the legacies so given unless it shall otherwise be provided by the will; and where any legatee or legatees are or may be under age at the time when such legacy or legacies shall become due, in such case such legatee or legatees shall and may maintain an action for their respective legacies by guardian or next friends, as fully, amply and largely as by law they may do in any other actions whatsoever.

[Section II.] And be it further enacted by the authority aforesaid. That the respective courts where the said actions shall be commenced upon the plea of the want of assets to pay all the debts and legacies shall appoint auditors to examine the accounts of the executors and administrators with testaments annexed, who, after full hearing of the parties at such times and places as by them the said auditors shall be appointed with notice to the parties, shall report how the accounts of the executors or administrators do stand, what assets will remain after payment of all the debts and what part of the remainder is the proportion that ought to go towards paying the plaintiffs' legacies; for which proportion only, unless it shall be otherwise provided by the will, the court shall then award execution upon the judgment to be had in the said suit, which judgment shall remain a security for the payment of the remainder of the said legacies and costs when sufficient assets for the payment thereof come to the executors' or administrators' hands; and where any exceptions shall be taken by either of the parties to the report of the auditors it shall and may be lawful for the court in which the action shall be depending on hearing of the parties to correct and amend any mistakes or errors which may happen in the accounts so to be reported.

Provided always, That no such suit shall be maintained for any such legacy until reasonable demand made of the executor or executors or administrators with wills annexed who ought to pay the same and an offer made of two sufficient sureties to the said executor or executors, administrator or administrators aforesaid, who, if they think proper to accept thereof, shall become bound to them the said executor or executors, administrator or administrators aforesaid in double the sum of the legacy given with condition underwritten that if any part or the whole thereof shall at any time after appear to be wanting, to discharge any debt or debts, legacy or legacies, which the said executor or executors, administrator or administrators shall not have other assets to pay, that then he, the said legatee, will return his said legacy or such part thereof as shall be necessary for the payment of the said debts or the payment of a proportional part of the said legacies; and if the said executors or administrators shall not think proper to accept of such bond, then the said legatees shall file the same with the clerk of the court before obtaining any process against the executor or executors, administrator or administrators, otherwise and in default thereof the process [issued] shall abate.

[Section III.] And be it further enacted by the authority aforesaid, That the justices of the courts aforesaid respectively, upon consideration of the report of the accounts of the executors or administrators, shall, according to justice and equity, either award no costs or costs out of the testator's estate, or in case the executors or administrators have been faulty in delaying to pay the legacy demanded or a proportional part thereof without sufficient excuse, then out of the proper estate of the executor or executors, administrator or administrators, anything herein contained to the contrary notwithstanding.

Provided also, That where there are or may be several legatees and a return of part of the said legacy sued for appear necessary, in such case each legatee shall only be compelled to return a proportionable part of his legacy so as to make up the whole sum wanting.

Provided also, That where no time in and by any last will and testament is limited for the payment of any such legacies,

that then and in such case the said executors or administrators shall have the space of one year to discharge the same.

[Section IV.] And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of seven years and from thence to the end of the next sessions of assembly and no longer.

Passed September 20, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII. Repealed by the Act of Assembly passed March 21, 1772, Chapter 654.

#### CHAPTER DXXX.

AN ACT TO ENABLE THE COMMISSIONERS HEREINAFTER NAMED TO SETTLE THE ACCOUNTS OF THE MANAGERS AND TO SUE FOR AND RECOVER FROM SEVERAL PERSONS SUCH SUMS OF MONEY AS ARE NOW DUE AND UNPAID ON ACCOUNT OF A LOTTERY SET UP AND DRAWN FOR ERECTING A BRIDGE OVER SKIPPACK CREEK, IN THE COUNTY OF PHILADELPHIA, AND TO RECEIVE THE VOLUNTARY DONATIONS AND SUBSCRIPTIONS OF THE INHABITANTS TOWARDS THE BETTER PERFECTING THE SAID BRIDGE.

Whereas although it is now a considerable time since a lottery was drawn for erecting a bridge over Skippack creek, in the county of Philadelphia, the money arising thereon is not yet by a great part collected, and through the neglect of particular managers to collect and account for the sums due on the tickets by them respectively sold the execution of the design for which the money was intended is unnecessarily delayed and the public deprived of its advantage.

To the end thereof that the money may be speedily collected and the bridge built over the creek aforesaid:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in

General Assembly met, and by the authority of the same, That William Dewees, Michael Hillegas and Benjamin Davis, gentlemen, are hereby nominated and appointed commissioners for building a bridge over Skippack creek, in the county of Philadelphia, aforesaid.

And in order to enable them to execute and perform that duty: [Section II.] Be it further enacted by the authority aforesaid, That all and every the managers concerned in the lottery aforesaid are hereby enjoined and required, within three months next after the publication hereof, upon request for that purpose to them or any or either of them made by the said commissioners, to render fair and just accounts of the moneys by them or any of them received with the debts to them or any of them due and owing for or on account of tickets sold and the names of the person or persons who stand indebted to the said managers, or any of them, for tickets sold as aforesaid; and upon settlement of such account with the said commissioners, or a majority of them, the said managers and every of them in the lottery aforesaid, upon any sum of money being found in their hands, or from them or either of them due or from any other person or persons to them, or either of them, indebted for tickets purchased as aforesaid, shall and they are hereby enjoined and required forthwith to pay to the said commissioners, or a majority of them, the sums from them respectively due; and in default of payment it shall and may be lawful to and for the said commissioners, or a majority of them as aforesaid, and they are hereby enjoined and required, in their own names, to sue for and recover all such sums of money by action of debt, action on the case or otherwise, as may be proper; if above five pounds, in any court of common pleas within this province; if five pounds or under, before any justice of the peace, and upon trial to give this act and the books of the said managers or other legal proof in evidence; and if it shall appear to the court and jury or to the justice of the peace aforesaid on any trial by virtue of this act before them respectively had that the sum demanded or any part thereof is justly due, then the said court of justice respectively shall give judgment against the defendant for so much as shall appear to be due, with costs and shall award



execution for the same as is usually done in such like actions before them respectively triable and determinable by the laws of this province; but if no part of the sum demanded shall appear to be due as aforesaid, then the said court or justice respectively shall give judgment for the costs against the plaintiffs, which costs shall be paid out of the moneys recovered or collected by virtue of this act.

And the better to procure a sufficient stock of money for building the said bridge:

[Section III.] Be it further enacted by the authority aforesaid, That the said commissioners are hereby authorized, empowered and enabled to receive of and from any person or persons any sum or sums of money which have been or hereafter shall be subscribed for and towards defraying the charge of building the bridge aforesaid, provided the same do not in the whole exceed the sum of one thousand pounds, and to apply the same with the other moneys arising by the lottery aforesaid for the erecting and building a bridge over Skippack creek with all convenient speed as the same was originally intended or declared in the public papers of this province by the managers of the said lottery at the time of its institution respectively and to no other use or purpose whatsoever, and for that end the said commissioners, or a majority of them, are hereby further authorized and empowered to set the said work to any person or person whomsoever as they, in their best discretion, shall judge requisite.

[Section IV.] And be it further enacted by the authority aforesaid, That the said commissioners shall, when required, render and make report of their proceedings and transactions in the premises aforesaid to the commissioners of the county of Philadelphia for the time being, and shall lay before them a faithful and just account of all and every sum and sums of money by them had and received for the building the said bridge and in what manner the same is or shall be expended and laid out, that the same may be adjusted, settled and allowed.

[Section V.] And be it further enacted by the authority aforesaid, That this act and every article, clause and thing therein contained shall be and continue in full force for and during the

term of three years from the publication hereof and from thence to the end of the next session of assembly and no longer.

Passed September 20, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the Acts of Assembly passed March 9, 1771, Chapter 634; October 3, 1788, Chapter 1366. Expired.

## CHAPTER DXXXI.

AN ACT TO EXPLAIN AND AMEND A SUPPLEMENT 1 TO AN ACT, ENTI-TLED "AN ACT FOR THE RELIEF OF INSOLVENT DEBTORS WITHIN THE PROVINCE OF PENNSYLVANIA." 2

Whereas by virtue of a supplement 1 to an act, entitled "An act for the relief of insolvent debtors within the province of Pennsylvania," 2 passed in the present year of His Majesty's reign, it was enacted that any person or persons charged or thereafter to be charged in execution for any sum or sums of money not exceeding in the whole the sum of one hundred and fifty pounds to any one person should and might, after the publication of that act, be relieved in the same manner as any person could or might for a smaller sum by virtue of the acts then in force. And whereas a doubt has arisen whether any person owing a greater sum to any one person than one hundred and fifty pounds, if charged in execution for a less sum, may not be relieved by the said act.

Therefore, for the removing such doubt:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That no person or persons being justly indebted to any one person

<sup>&</sup>lt;sup>2</sup> Passed February 14, 1729-30, Chapter 315.

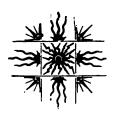


<sup>1</sup> Passed February 2, 1765, Chapter 518.

in a sum exceeding one hundred and fifty pounds shall be entitled to relief as an insolvent debtor by virtue of the said supplement or by virtue of any act now in force for the relief of insolvent debtors, although such person or persons be charged in execution for any other sum not exceeding one hundred and fifty pounds, anything contained in the said supplement or in any other act of assembly to the contrary notwithstanding.

Passed September 20, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed February 14, 1729-30, Chapter 315.

# APPENDICES.



# APPENDIX XXIV.

Papers relating to the acts passed by the fifty-ninth, sixtieth, sixty-first, sixty-second, sixty-third, sixty-fourth assemblies under the Charter of 1700, from October 15, 1759, to September 20, 1765.

# SECTION I.

1. Proprietary Objections to Chapter 452.

#### SECTION II.

- 1. Minutes of the Provincial Council, February 24, 1761.
- 2. Minutes of the Provincial Council, February 28, 1761.
- 3. Message from the Governor to the Assembly, March 10, 1761.
- 4. Message from the Assembly to the Governor, March 11, 1761.
- 5. Minutes of the Provincial Council, March 12, 1761.
- 6. Minutes of the Provincial Council, March 14, 1761.
- 7. Minutes of the Provincial Council, April 8, 1761.
- 8. Minutes of the Provincial Council, April 11, 1761.
- 9. Minutes of the Provincial Council, April 14, 1761.
- 10. Minutes of the Provincial Council, April 18, 1761.
- 11. Minutes of the Provincial Council, April 22, 1761.
- 12. Minutes of the Provincial Council, September 22, 1761.
- 13. Minutes of the Provincial Council, September 24, 1761.
- 14. Minutes of the Provincial Council, September 26, 1761.
- 15. Minutes of the Provincial Council, January 27, 1762.
- 16. Minutes of the Provincial Council, February 8, 1762.
- 17. Minutes of the Provincial Council, February 10, 1762.
- 18. Minutes of the Provincial Council, February 16, 1762.
- 19. Minutes of the Provincial Council, February 18, 1762.
- 20. Minutes of the Provincial Council, March 9, 1762.
- 21. Minutes of the Provincial Council, March 17, 1762.

- 22. Minutes of the Provincial Council, March 23, 1762.
- 23. Minutes of the Provincial Council, March 24, 1762.
- 24. Minutes of the Provincial Council, March 25, 1762.
- 25. Minutes of the Provincial Council, March 26, 1762.
- 26. Minutes of the Provincial Council, May 13, 1762.
- 27. Minutes of the Provincial Council, May 14, 1762.
- 28. Minutes of the Provincial Council, January 18, 1763.
- 29. Minutes of the Provincial Council, February 8, 1763.
- 30. Minutes of the Provincial Council, February 15, 1763.
- 31. Minutes of the Provincial Council, February 22, 1763.
- 32. Minutes of the Provincial Council, February 23, 1763.
- 33. Minutes of the Provincial Council, February 25, 1763.
- 34. Minutes of the Provincial Council, February 28, 1763.
- 35. Minutes of the Provincial Council, March 3, 1763.
- 36. Minutes of the Provincial Council, March 4, 1763.
- 37. Minutes of the Provincial Council, April 2, 1763.
- 38. Minutes of the Provincial Council, July 8, 1763.
- 39. Minutes of the Provincial Council, September 29, 1763.
- 40. Minutes of the Provincial Council, September 30, 1763.
- 41. Minutes of the Provincial Council, October 22, 1763.

#### SECTION III.

- 1. Bill for Granting Thirty Thousand Pounds, April 17, 1761.
- 2. The Governor's Amendments, April 21, 1761.
- 3. Message from the Governor to the Assembly, April 22, 1761.
- 4. Message to the Governor from the Assembly, April 23, 1761.
- 5. Certificate of the Rev. Richard Peters, Secretary of the Province, April 30, 1761.
- 6. Opinion of Sir Charles Pratt (afterwards) Lord Camden, June 10, 1761.

#### SECTION IV.

1. Bill for Granting Seventy Thousand Pounds, March 19, 1762.

#### SECTION V.

1. The Governor's Amendments to Chapter 464, March 12, 1764.

#### SECTION VI.

- 1. Letter from Henry Wilmot to Governor John Penn, May 30, 1764.
- 2. Rev. Richard Peters' Draft of the Governor's Objections to the "Supply Bill," May 30, 1764.

#### SECTION VII.

1. Supplement to bill for Granting Fifty-five Thousand Pounds, February 7, 1765.

#### SECTION VIII.

- 1. Order of Reference, February 11, 1766.
- 2. Board of Trade Journal, February 18, 1766.
- 3. Opinion of Sir Matthew Lamb, May 3, 1766.
- 4. Board of Trade Journal, June 2, 1766.
- 5. Board of Trade Journal, June 3, 1766.
- 6. Board of Trade Journal, June 9, 1766.
- 7. Board of Trade Journal, June 13, 1766.
- 8. Representation of the Board of Trade, June 13, 1766.

The Proprietaries' Objections to Chapter 452.

Vide the objections to the act, entitled "An act for the continuance of an act of assembly of this province, entitled 'A supplementary act to the act, entitled "An act for preventing the exportation of bread and flour not merchantable, and for the new appointment of officers to put the said law in execution." "Which said objections were settled before this act came over.

I perceive by this act the assembly have continued the act for seven years and from thence to the next sitting of assembly, and the officers for four years and from thence until a new nomination by the assembly and the appointment of these officers by the assembly alone, is the objection made by the proprietaries to this act.

From a copy in the collection of the Biotest Society of Pennsylvania.

SECTION II.

1.

At a Council held at Philadelphia, Tuesday the 24th February, 1761.

### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.,

Benjamin Shoemaker, Thomas Cadwalader, Richard Peters,

Esquires.

The several bills that had been presented to the governor for his concurrence, were read, viz.:

A bill, entitled "An act to enable the owners and possessors of the northern district of Kingsess meadow land, in the county of Philadelphia, to keep the banks, dams, sluices and floodgates in repair, and to raise a fund to defray the expense thereof," were on Friday or Saturday presented to the governor for his consideration and concurrence, but as the day is too far advanced to read all these bills, the council adjourned till to-morrow morning at ten o'clock, twist [sic] reading.

A petition from the merchants against the last bill, on consideration whereof it was agreed that the governor should send a message to the assembly, recommending the use requested in the petition.

The bill for the regulating of wagoners, carters, draymen and porters was amended.

The bill for enabling Thomas Yorke, &c., to sell the provinceship, and the merchants' petition upon it, was again considered, and it was recommended to the governor to send it down with a message to the House to reconsider it and grant the petitioners their prayer.

A Message from the Governor to the Assembly.

"Gentlemen: Soon after you sent me up the bill, entitled 'An act to enable Thomas Yorke, James Child, Daniel Rundle, Peter Chevalier and Enoch Story, or any three of them, to sell the pro-

vincial ship of war,' I received a petition from very many of the principal merchants of this city, setting forth the great interruption given to navigation almost every winter by the ice and the frequent losses sustained for want of a place of safety for their ships between the capes and this town; and that, as the surplus money to be disposed of by this bill was raised and paid by the owners of ships and importers of certain commodities into this city, they had an intention of making application to you for a different and, as they apprehend, more useful disposition of it, namely, for the erecting piers in some proper part of the river to secure their ships from the ice, but that, unfortunately, this bill had passed your house, and had been sent up for my concurrence before they had any intimation that such a bill was intended and, therefore, praying that I would send down the bill to your house for a reconsideration.

Sensible of the great inconveniences and losses the trade of the city [and] province is subjected to from the want of such protection or security as is mentioned by the petitioners, and being desirous to oblige so considerable [a] body of men, by giving them an opportunity of applying to their representatives in a matter they think of so much importance, I have been induced to comply with their request, and to send down the bill for your reconsideration and at the same time to acquaint you that if, upon hearing what can be said upon the subject, you shall incline to alter the appropriation of the money named in the bill and apply it to the purposes prayed for by the petitioners, I shall readily consent to it; if otherwise, I will give my assent to the bill as it stands.

JAMES HAMILTON.

February 26, 1751."

A bill, entitled "An act to regulate the assize of bread," was presented to the governor for his concurrence and returned to the House with a message that he would pass it.

Colonial Records, Vol. VIII, p. 573.

At a Council held at Philadelphia, on Saturday, the 28th of February, 1761.

### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Benjamin Shoemaker, Lynford Lardner, Thomas Cadwalader, Richard Peters, Esquires.

A bill, entitled "An act to enable the owners and possessors of the meadow at the west side of the mouth of Darby creek, by the river Delaware, in the township of Ridley, in Chester county, to keep the banks, dams, sluices and floodgates in repair forever, and to raise a fund to defray the expense thereof," was delivered to the governor and returned to the House with his assent.

A bill, entitled "An act for laying a duty on negroes and mulatto slaves imported into this province," was presented to the governor for his concurrence.

A petition from the merchants of the city upon the subject of the said act, was presented and read in these words:

A Petition from the Merchants against the Bill for Duty on the Negroes.

"To the Honorable James Hamilton, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., &c.:

The Petition of Divers Merchants of the City of Philadelphia, Trading to His Majesty's Colonies in the West Indies,

Humbly Showeth: That we are informed there is now a bill before your Honor for your assent, laying a duty on the importation of negroes, and that it is to take place immediately on the publication.

We, the subscribers, ever desirous to extend the trade of this province, have seen, for some time past, the many inconveniences the inhabitants have suffered for want of laborers and artificers, by numbers being enlisted for His Majesty's service and near a total stop to the importation of German and other white servants, have, for some time, encouraged the importation of negroes, and acquainted our friends and correspondents in several parts of His Majesty's dominions (who are no way apprehensive of a bill of this nature), that an advantage may be gained by the introduction of slaves, which will likewise be a means of reducing the exorbitant price of labor and in all probability bring our staple commodities to their usual prices; and as many of us have embarked in this trade through the motives before mentioned, we humbly beg your Honor will take into consideration the hardships we shall labor under by such a law taking immediate effect, when we have it not in our power to countermand our orders or advise our friends; therefore, humbly pray that such time may be allowed (before the law takes place) as your Honor shall think most conducive to extricate your petitioners from the impending danger.

Philadelphia, 1st March, 1761.

John Bell,
Humphry Robinson,
Reed & Pettit,
William Coxe,
Charles Batho,
Philip Kearney, Jr.,
James Chalmers,
Joseph Wood,
Willing, Morris & Co.,
Thomas Riche,
David Franks,
Hugh Donnaldson,

1761

Benjamin Levy,
Henry Harrison,
John & Joseph Swift,
John Nixon,
Daniel Rundle,
Francis & Relfe,
Stocker & Fuller,
Scott & McMichael,
John Inglis,
David McMurtrie,
Samuel & Archibald McCall,

Joseph Marks."

3.

10th March, 1761.

A Message from the Governor to the Assembly.

"Gentlemen: I now return the bill, entitled 'An act for laying a duty on negroes and mulatto slaves imported into this province,' with some amendments, in order to make it more agree-

able to and consistent with the nature of an English constitution.

For I cannot help observing, Gentlemen, that in the framing of this, you have not only fixed upon the officer to put [it] in execution, but have, likewise, inserted the name in the bill, without having previously acquainted me with your intention, and obtained my concurrence to such nomination.

Nevertheless, although I am well assured from the best authority that this practice is altogether unconstitutional and see no foundation for it in the charter of privileges or laws of the province, yet, from my having nothing to object to the gentlemen you have thought fit to name, I am, indeed, on the present occasion, to waive the right inherent in me as one branch of the legislature, and to let the bill stand as it does in that respect.

But, at the same time, Gentlemen, I think myself obliged to acquaint you that in all future instances of appointing an officer by act of assembly, I shall hold myself indispensably bound, in maintenance of His Majesty's prerogative, to object to any officer that shall be named in such bill, unless his appointment shall have been first mutually agreed upon betwixt you and me in a conference for that purpose, however agreeable or acceptable to me the person might otherwise be.

JAMES HAMILTON."

Amendments to the Bill, entitled "An act for laying a Duty on Negroes and Mulatto Slaves imported into this Province."

"Page 2d, line, after the word [after] insert [the expiration of the term of six months from].

"Page 19. Dele from the word [duty] at the end of the 8th line to the word [Province], inclusive, at the end of the 11th line, and instead thereof say [until the end of the next sitting of assembly, and no longer, during which said sitting a new appointment shall be made by act of general assembly].

"Page 21, lines 9 and 10. Dele the words [seven years from and after the publication] and insert these words [four years from and after the commencement]."

Colonial Records, Vol. VIII, p. 578.

11th March, 1761.

The Governor received from the House a paper in answer to his amendments of the Negro Bill:

The Assembly's Answer to the Governor's Amendments of Negro Act.

"Amendment, 1st, page 2, line 6. The House request the governor would be pleased to reconsider his amendments, as they apprehend considerable mischief may attend the postponing the force of the act for six months, as in that time great numbers of negroes may be imported from the West Indies and other places; besides the house conceive no great inconveniency or loss can happen to the merchant, as slaves are now in great demand in the neighboring colonies, and to allow an importation for six months would, they apprehend, be virtually a bounty to the importer during that time, as no others can afterwards import them on equal terms, during the continuance of the act.

"Amendment 2d, page 19. The House request the governor would be pleased to recede from his amendment, as it may render the act ineffectual in case of the death or resignation of the governor and misbehavior or death of the officer happening at the same time, for, by an act of this province, passed in the tenth year of Queen Anne, entitled 'An act for the further securing the administration of the government,' no other law under these circumstances could be enacted for appointing an officer to execute this law.

"Amendment 3d, page 21. The House agrees to the governor's amendment."

11th March, 1761.

The Governor's reply to the Assembly's Answer to the Bill for laying a Duty on Negroes and Mulatto Slaves imported into this Province.

"Amendment 1st, page 2, line 6. The governor recedes from this amendment.

"Amendment 2d, page 19. The governor adheres to his amendment."

Colonial Records, Vol. VIII, p. 580.

12th March, 1761.

The three following bills having been presented to the Governor for his concurrence, were agreed and returned to the House with a message that he would pass them:

A bill, entitled "An act for the preservation of fish in the river Delaware, Susquehanna and [the] Lehigh, commonly called the Western Branch of Delaware."

A bill, entitled "An act for making the river Schuylkill navigable, and for the preservation of the fish in the said river."

A bill, entitled "An act for raising, paying and clothing three hundred men, properly officered, for relieving the several forts and posts within the communication to Pittsburgh, and for continuing 'An act for regulating the officers and soldiers in the pay of the province.'"

Colonial Records, Vol. VIII, p. 582.

6.

At a Council held at the State House, on Saturday, the 14th March, 1761.

## Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Richard Peters,
Thomas Cadwalader,
Lynford Lardner,

Esquires

The Governor sent the following verbal message to the House by the Secretary:

"The Governor commands me to acquaint the House that as a considerable number of Indians may be expected to come and treat with the government some time in the summer in consequence of the invitations that have been sent to them, he desires the House will appoint a committee to attend the treaties and to make provision for the expense that will attend them."

The Governor required the attendance of the House in the council chamber immediately, in order to enact into laws the several bills that have been agreed to, and the speaker, with

the whole House, accordingly waited on the Governor, and presented the following bills, which were enacted into laws, and after the great seal was affixed to them they were lodged in the Rolls office.

The speaker presented to the Governor an order or certificate for one thousand pounds, for which the Governor returned his thanks to the House.

"An act to enable the owners and possessors of the meadow at the west side of the mouth of Darby creek, by the river Delaware, in the township of Ridley, in Chester county, to keep the banks, dams, sluices and floodgates in repair forever, and to raise a fund to defray the expense thereof."

"An act to enable the owners and possessors of the Northern district of Kingsess meadow land, in the county of Philadelphia, to keep the banks, dams, sluices and floodgates in repair, and to raise a fund to defray the expense thereof."

"An act to enable certain trustees to sell lands in the county of Philadelphia in trust for the use of the minister of Oxford and to receive the voluntary donations of the inhabitants, and, with the moneys arising therefrom, to purchase other lands to be settled to the same use."

"An act for regulating wagoners, carters, draymen and porters within the city of Philadelphia, and for purposes therein mentioned."

"An act to enable Thomas Yorke, James Child, Daniel Rundle, Peter Chevalier and Enoch Story, or any three of them, to sell the provincial ship of war."

"An act to regulate the assize of bread."

"An act for laying a duty on negroes and mulatto slaves imported into this province."

"An act for the preservation of fish in the rivers Delaware, Susquehanna and the Lehigh, commonly called the Western Branch of Delaware."

"An act for making the river Schuylkill navigable and for preservation of the fish in the said river."

"An act for raising, paying and clothing three hundred men properly officered, for relieving the several forts and posts within the communication to Pittsburg and for continuing the act for regulating the officers and soldiers in the pay of this province."

A Message from the Assembly delivered to the Governor in Council, was read in these words:

A Message from the Assembly to the Governor.

"May it please your Honor:

"The report of the committee of His late Majesty's most Honorable Privy Council relating to the act passed in this province in the year one thousand seven hundred and fifty-nine, entitled 'An act for granting to His Majesty the sum of one hundred thousand pounds, &c.,' and His late Majesty's determination thereupon were no sooner laid before the House than we thought it our duty to appoint a committee to inquire into the state of the taxations under that law, and particularly so far as it regarded the taxing the proprietary estate, which committee, after a full and careful examination of the taxes laid throughout the province, have made their report, whereby it appears:

"First. 'That no part of the unsurveyed waste lands belonging to the proprietaries have in any instance been included in the estates taxed.'

"Secondly. 'That some of the located uncultivated lands belonging to the proprietaries in several counties remain unassessed and are not in any county assessed higher than the lands under like circumstances belonging to the inhabitants.'

"Thirdly. 'That all lands not granted by the proprietaries within boroughs and towns remain untaxed, excepting in a few instances, and in those they are rated as low as the lands which are granted in the said boroughs and towns.'

"And, That the whole of the proprietary tax of eighteen pence per pound throughout the province in one year amounts to five hundred and sixty-six pounds, four shillings and ten pence; and the sum of the tax of the inhabitants for the same year and at the same rate amounts, through the several counties, to twentyseven thousand one hundred and three pounds twelve shillings and eight pence.'

"And it is the opinion of the said committee, 'That there has not been any injustice done to the proprietaries, or attempts

made to rate or assess any part of their estate higher than the estates of like kind belonging to the inhabitants are rated and assessed, but, on the contrary, the committee find the proprietary estates are rated in many instances below others.'

"This report appears to the House, upon an inspection into the provincial assessments now lying before us, to be just and true; and your Honor will permit us to add that the major part of the members of the present assembly, having also been members of the assembly in the year one thousand seven hundred and fifty-nine, when the act was passed, are well assured that it never was the intention by that act either to tax the proprietaries' unlocated lands, or to contravene the stipulations and agreements entered into with the proprietaries for the payment of their quit-rents, but that those stipulations and agreements should remain as binding upon all the parties concerned therein, as they were or could be before the passing of that act.

"And we beg leave further to remark, that by the law now under our consideration, the commissioners and assessors are obliged to lay before the assembly, for the time being, their rates and taxations for every year, whereby the assembly will be enabled to judge of any variations from the present mode of taxation, and if it shall then appear that any injustice is offered to the proprietaries, or if the governor, in behalf of the proprietaries, can point out any injury they may receive in the execution of the said act, we doubt not the then assembly will cheerfully and readily offer a bill to the governor to do them justice.

"In the mean time, as the taxes are now assessed and no other or further assessment can be made to the next year, we apprehend the proprietaries can receive no damage from the law as it now stands, and which must soon expire by its own limitation, we request the Governor will be pleased to lay a fair and candid state of this matter before our superiors, in which case we have great reason to hope and believe that the act passed by your Honor in the year one thousand seven hundred and sixty may and will receive the royal approbation, and by the means satisfy

the proprietaries and prevent the great evils and confusion which the repeal of that law might bring upon this province.

"Signed by order of the House.

"ISAAC NORRIS, Speaker."

The members that delivered the message acquainted the Governor that the House having finished the principal business before them, inclined to adjourn to the 7th of September, if his Honor had no objection thereto.

Colonial Records, Vol. VIII, p. 583.

7.

8th April, 1761.

A bill, entitled "An act for laying a duty on negroes and mulatto slaves imported into this province," was presented to the Governor for his concurrence.

[Large blank in Council Book.] Colonial Records, Vol. VIII, p. 596.

8.

11th April, 1761.

The Governor returned the bill for laying a duty on negroes and mulatto slaves imported into this province, with a message that he was ready to pass it.

The same day a bill, entitled "An act to prevent the exportation of bad or unmerchantable staves, heading, boards and timber," was presented to the Governor by two members for his concurrence.

Colonial Records, Vol. VIII, p. 601.

9.

At a Council held at Philadelphia, on the 14th April, 1761.

# Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Joseph Turner,
Benjamin Chew,
Richard Peters,

- Esquires.

The Governor returned the bill, entitled "An act to prevent the exportation of bad or unmerchantable staves, heading, boards and timber," with a message that he would pass it.

Colonial Records, Vol. VIII, p. 602.

10.

At a council held at Philadelphia, on Saturday, the 18th of April, 1761.

## Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Richard Peters,
Benjamin Chew,

Benjamin Chew,

A bill having been presented to the Governor for his concurrence, entitled "A bill for granting to His Majesty the sum of thirty thousand pounds, and for striking the same in bills of credit, and for providing a fund for sinking the said bills of credit," the same was read and considered, and it appearing to have in it the very matters for which some former acts of assembly were repealed by the King in Council, the Governor was advised to repeal it and assign his reason in a written message, and to send the secretary with the following verbal message to know what certificates had been given out by the assembly.

A Verbal Message delivered by the Secretary, by order of the Governor, to the Assembly:

"I am ordered by the Governor to desire the House will furnish him with a particular account of all the certificates and draughts on the provincial treasurer; and also with the amount of the money due to the masters or owners of servants heretofore enlisted into His Majesty's service, and to the public housekeepers for quartering soldiers, which are made payable out of the supply bill now before him."

Colonial Records, Vol. VIII, p. 605.

At a Council held at Philadelphia, 22d April, 1761.

# Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Richard Peters, Benjamin Chew, Esquires.

The following message to the Assembly was read, and approved of and sent to the House:

A Message from the Governor to the Assembly.

"Gentlemen: It was no less surprise than concern to me, on perusing your bill for granting to His Majesty the sum of thirty thousand pounds, to find that within a few months after his late Majesty had so expressly declared his disapprobation of several provisions contained in your late acts, as to make them the foundation of their repeal, you have again ventured to renew them, and insert them in the present bill, as if no such censure or disapprobation had ever passed.

With what view or intention you have done this, I do not take upon me to determine, yet thus much I must have leave to say, that it is a strong evidence of your paying but a very slender regard to the judgment of the King and his Ministers, when of all the particulars objected to by them, so far as they are applicable to this bill, you have not thought fit to conform to their sentiments in respect to any of them.

You cannot be unacquainted, Gentlemen, that in the report of the Lords of Trade and Plantations, approved and confirmed by his late Majesty in Council, the three following particulars were not only objected to, but severely censured, as being either encroachments on the prerogative of the Crown or acts of injustice with regard to your proprietaries, viz.:

First, The blending and connecting together in the same bill, things which in their own nature are totally separate, by which the Crown is reduced to the alternative either of passing what it disapproves or of rejecting what may be necessary for the public service, and which is expressly called a tack.

Secondly. The vesting in yourselves alone the application of the public money, usurping by this means one of the most inviolable prerogatives of the executive power, not countenanced by any example of the British Parliament, who always considered the application of the public money subject to account as one of the most indisputed powers of the Crown.

Thirdly. Your contending that the proprietaries should be bound to receive their rents in paper currency, notwithstanding the express words of their covenants in sterling.

Having thus recited the purport of his late Majesty's sentiments upon these several points, I shall proceed to show that, by the bill sent up for my concurrence, every rule and principle therein established is either directly or virtually contravened and set at nought; but in order to do this the more clearly, it is necessary to state the facts upon the first and second objections fully, by which means the proof of both may be comprised under one and the same article.

Since the commencement of the present war, the Parliament of Great Britain have, from time to time, granted large sums of money to be apportioned by the King to the several colonies, for reimbursing them a part of the expenses they have been put to by the aids they have granted to His Majesty for prosecuting the war in America. In consequence hereof, a considerable sum of money hath been allotted, and is ready to be paid, for the use of this province, whenever a person shall be properly authorized by both branches of the legislature to receive it, and not otherwise; for, as the money was granted to the whole legislature, the board appointed to pay it have insisted that the person applying to receive it should be empowered by the same authority. The Governor, as one branch of the legislature, in September last, did offer to join with assembly in appointing agents to apply for and receive the money so granted, on condition of his retaining a concurrent power with them, in the superintending and applying it to the purposes to be appointed by The assembly, on the contrary, being desirous to deprive the Governor of any share or management of the money granted, or to be granted, by Parliament as aforesaid, and to subject the whole to their own power independent of him, under the pretense, indeed, of applying it to the payment of the public debts and in abatement of the taxes, did present to him a separate bill 'for the appointment of agents to receive the same and invest it in the public stocks in their own names, and empowering the trustees of the loan office, when thereto required by the immediate direction of the House, to draw upon them for the money and apply it to the purposes aforesaid.' But as they had therein attempted to deprive the Governor both of his share in the nomination of the agents and of any concurrent power with themselves in the superintendence and due application of the money, and had not limited a time in which the said money should be drawn for and applied as aforesaid, he, therefore, refused his assent to the bill, and which the House, no longer expecting to accomplish their purposes by a separate bill, have now seized the occasion of His Majesty's demanding an aid from the province to blend and connect these unconstitutional claims with the supply bill, which they will not suffer to be altered or amended, in order to oblige the governor either to give up so essential a branch of the prerogative or to subject himself to the King's displeasure for refusing the supplies offered him.

If these facts be rightly stated, Gentlemen, as I conceive they are, then the clause in your bill relating to the management and disposition of the money granted by Parliament, which is the same in effect I refused my assent to before, and its being inseparably joined to the clauses for granting an aid to His Majesty, will, in my opinion, be a convincing proof that the present bill is justly liable to the censure passed upon the former acts, of being both a tack to the supply bill (by which the King's representative is denied the free use of his negative in the legislature) and as tending to usurp one of the most inviolable prerogatives of the executive power in the application of the public money subject to account, which being once given up, would be to change, in a great degree, the constitution and sap the foundations of government.

With respect to the third point, the Lords of Trade, in their report, of which you have a copy, have reasoned so fully and so much better than I am capable of, on the subject of your contending that the proprietaries should be bound to receive their quit-rents in paper currency, notwithstanding their express covenants in sterling, and have also expressed His Majesty's opinion in respect to reservations of that kind in colonies immediately under his own government, that I shall not venture to say anything further upon that head, but only put you in mind that your present bill contains a clause of the same nature with that objected to by His Majesty in council, and that you have not offered any compensation to the proprietaries for the loss they are to sustain thereby, though former assemblies were both sensible of the justice of such compensation and made it accordingly.

I was in great hopes, Gentlemen, that on your being convened to consider of His Majesty's requisition, you would not have fallen short of the other colonies in a zealous and ready compliance with it, considering the importance of the service for which your aid is required; and I flatter myself that this might have been easily done without laying any new burdens upon the people or running the risk of our falling into fresh contentions about the means of doing it, as has been too often the case in respect to bills of this nature; but as these means do not seem to have occurred to you, I hope to be excused for pointing them out to you.

You are sensible, Gentlemen, that there is a sum of money lying in the hands of your agents in England (part of the Parliamentary grant), more than sufficient to answer all the purposes of the present bill, even though you had double the number of men thereby granted to His Majesty; and since the making use of this money could occasion no controversy between you and me, why might not a bill have been prepared, empowering the trustees forthwith to draw for it and pay the produce, or such part as should be necessary, into the hands of the commissioners, to be applied to the present service? Or to what end should you think of overwhelming the province with floods of paper money, at a time when that currency is depreciating so fast as must necessarily prove injurious, not only to the English merchants trading hither, but to every man in the province who is possessed of property in a personal estate, and more particu-



larly to widows and orphans? Or why would you choose to propose creating a fund for sinking this money, upon terms which you well know I neither ought or can accept of without breaking in upon the just and established rights of government, when all these difficulties and inconveniences might be so easily avoided by making use of that fund which is absolutely in your power?

Perhaps you will say, Gentlemen, that the money lying in your agents' hands is by law appropriated to the payment of the public debts, and, therefore, ought not to be diverted to any other service. But pray, Gentlemen, has one shilling of it as yet been applied to that purpose? Or, if that was an objection to our using it for any other service, does it not equally lie against the making use of the money heretofore allotted and not received, as a fund for sinking the sum of thirty thousand pounds in bills of credit voted to His Majesty, as you have proposed in the present bill? The cases, then, are exactly similar, except that you choose to give money of which we are not possessed rather than that of which we are.

But further to obviate that objection, you may please to remember, Gentlemen, that there is an express provision in the act empowering the governor and assembly to dispose of the money in your agents' hands to any purpose they think fit; and I do not think it can be better disposed of than by granting such a part of it to His Majesty as may be sufficient for the present service, and applying the remainder (if any) to the payment of the public debts and in abatement of the taxes; for I can, by no means, think it reputable to or becoming any government to be trafficking with the people's money, while they, at the same time, are paying taxes for it. Dealing in the stocks has always been deemed as a more reputable sort of gaming, by which loss as well as gain may accrue to the adventurers. may do as they please with their own money, but the giving ease to the people by lightening the burden of their taxes ought not to be delayed under the precarious expectations of increasing the public stock.

Upon the whole, Gentlemen, a regard to the just rights of government, which I shall on all occasions think myself indispensably obliged to support and maintain, and the greatest deference I bear to the judgment and opinion of our late gracious sovereign and his ministers, who have actually repealed some of the acts of this province for the reasons I have above set forth, render it impossible for me to give my assent to the bill now before me. At the same time, I cannot but express the highest concern lest His Majesty's service should be obstructed, if any difference in opinion between us, on the present occasion, should deprive him of the aids he demands from this province. I must, therefore, recommend it to you, Gentlemen, in the warmest manner, to reconsider the bill, and if you will not accede to the amendments I have proposed thereto, to fall on some other means of complying with His Majesty's most reasonable requisition, by forming a new bill, free from the objections I have herein pointed out to you.

JAMES HAMILTON.

# April 22nd, 1761."

Amendments to the Bill, entitled "An act for granting to His Majesty the sum of thirty thousand pounds and for striking the same in bills of credit, and for providing a fund for sinking the said bills of credit."

"Page 4, line 5. Dele the words [John Sergeant] and insert the words [David Barclay, junior, and John Barclay].

"Page 5, line the last. After the word [house], add as follows [countersigned by the governor and commander in chief of this province for the time being, and not otherwise].

"Page 6, line first. Dele the name [John Sergeant] and insert [David Barclay, junior, and John Barclay].

Same page, line 4. After the word [same], add as follows: [together with all the gain, profits, interest or emoluments thereon arising or accruing, or that may or shall by any ways or means whatsoever be made thereof].

"Same page, line 6. Dele the name [John Sergeant] and insert [David Barclay, junior, and John Barclay].

"Same page, line 14. After the word [being], insert [by a resolve of the house of assembly, countersigned by the governor and commander in chief of this province for the time being, and not otherwise].

"Page 7, line 3. After the word [colony], add [and all the profits, interest or emoluments that shall or may arise thereon as aforesaid].

"Same page, line 8. Dele the words [so much of the] and instead thereof insert the words [all and every the sum and sums of].

"Same page. Dele from the word [as], in the 12th line, to the word [use], inclusive, in the penult line.

"Same page, last line. After the word [for], add [in manner aforesaid].

"Page 9, line 1. Dele the words [residue of the].

"Page 9, line 8. After the word [destroy], insert the following clause, viz.: [Provided always, and be it further enacted by the authority aforesaid, That if the said Benjamin Franklin, Robert Charles, David Barclay, junior, and John Barclay, or the survivors or survivor of them, shall not have received, within the aforesaid term of two years after the passing this act or within six months after a peace between the Crown of Great Britain and France shall be proclaimed within this province, the whole money which is or shall be allotted to this colony as the distributive share and proportion of the sum or sums of money granted, or to be granted, as aforesaid, then and in such case, the residue of the said sum and sums of money, with the interest, profits and emoluments thereof, if any, shall be drawn for in manner aforesaid within the term of six months after the respective receipts of the same by them, or the survivors or survivor of them; and the said trustees, towards sinking the said several sums of money heretofore granted to His Majesty's use and in abatement of the taxes laid for that purpose, shall pay all the money arising by the said bills or draughts in bills of credit, into the hands of the committee of assembly aforesaid, who shall burn, sink and destroy the same in manner hereinbefore directed].

"Page 15, line 9. After the word [whatsoever], add [rents reserved, or debts due or to become due and payable in sterling money to the proprietors of this province, only excepted and foreprised].

"Same page, penult line. After the word [received], add [except as before excepted].

"Page 22, line 7. Dele the words [John Sergeant] and instead thereof insert the words [David Barclay, junior, and John Barclay].

"22d April, 1761."

1761

The two bills to which the Governor gave his assent, the one, entitled "A supplement to the act, entitled 'An act for laying a duty on negroes and mulatto slaves imported into this province," the other "A supplement to the act, entitled 'An act to prevent exportation of bad and unmerchantable staves, heading, boards and timber," having been compared with the engrossed copies and the House, with their speaker, attending in the council chamber, they were enacted into laws and the Great Seal affixed to them, and they were afterwards lodged into the Rolls Office.

On the 23rd of April, the following message, in answer to the Governor's of yesterday, was delivered by two members, who acquainted the Governor that the House inclined to adjourn to the 7th of September next, to which he made no other objection than that it would be more agreeable to him, if they could agree to frame a new bill or accede to his amendments of the one rejected.

A Message to the Governor from the Assembly.

"May it please your Honor:

"We have taken into consideration your message which attended the bill for granting supplies to the Crown, in pursuance of His Majesty's gracious requisition and cannot, consistent with the rights of assembly and that duty we owe the people we represent, admit of the amendments proposed therein, nor can we think of framing a new bill for this purpose, as we have already prepared and presented to your Honor, a bill similar in its essentials to one which had received the approbation of His Majesty, and as we apprehend reasonable and just in all its parts; besides, we know of no other method consistent with our rights, but may be liable to objections of equal weight with those made by your Honor to the said bill.

The House being very much fatigued with the great length of time spent in the public business at this inconvenient season of the year, are obliged to content themselves for the present with this general answer, but as your two last messages contain matters which we think it our indispensable duty to answer in a more particular manner, we have appointed a committee to report more fully thereon to the House at their next meeting. "Signed by order of the House,

"ISAAC NORRIS, Speaker.

"April 23rd, 1761."

Colonial Records, Vol. VIII, p. 605.

12.

At a Council held at Philadelphia, on Tuesday, the 22nd September, 1761.

# Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Joseph Turner, Thomas Cadwalader, Richard Peters, Benjamin Chew,

Esquires.

The two following bills having been presented to the Governor for his concurrence, were read and considered, namely, a bill, entitled "An act to enable the owners and possessors of Schuylkill point meadow land, in the county of Philadelphia, to keep the banks, dams, sluices and floodgates in repair, and to raise a fund to defray the expense thereof." A bill, entitled "An act for appointing certain persons to apply for, and receive the distributive shares and proportions which are or shall be allotted to this province, out of the sum or sums of money granted or to be granted by Parliament to His Majesty's colonies in America." To the first bill there was no objection and it was returned to the House with a verbal message, that the Governor would be ready to pass it when presented to him for that purpose. the second bill, the governor was advised to pass it, but before he signified his assent to the House, it appeared to them that

the governor should inform himself whether the trustees of the loan office had drawn for that Parliamentary grant which was allotted to this province for the year 1758, amounting to the sum of £26,902 8 0 sterling, whereupon the governor sent to the House the following verbal message by the secretary:

"The governor has now under consideration the bill for appointing certain persons to apply for and receive the distributive shares and proportions which are or shall be allotted to this province out of the sum or sums of money granted by Parliament to His Majesty's Colonies in America; but before he returns the same, or gives an answer thereto, he desires the House will inform him whether the trustees of the loan office have drawn for the sum of twenty-six thousand nine hundred and two pounds eight shillings sterling, the part of the Parliamentary grant allotted to this province for the year 1758, which, by an act passed in the thirty-third year of His late Majesty, was expressly directed to be drawn for by them and applied in abatement of the public taxes and which he understands has already been received by Mr. Franklin."

The secretary likewise was ordered to demand a list of the certificates and draughts already drawn or to be drawn by the House for the service of the current year.

On the 23d of September, a message was delivered from the House to the governor, acquainting him that the House had, previous to his verbal message of yesterday, entered into a resolve and given orders to the trustees of the loan office for the said sum of money in the hands of Mr. Franklin, and they delivered to the governor a copy thereof for his satisfaction.

Colonial Records, Vol. VIII, p. 665.

At a Council held at Philadelphia, on Thursday, the 24th September, 1761.

### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Joseph Turner,
Benjamin Chew,
Richard Peters,

Esquires.

A bill, entitled "An act for the relief of William Griffitts," was read and amended and sent to the House with a message that [the] Governor would pass the bill, provided they agreed to the amendments.

Colonial Records, Vol. VIII, p. 666.

14.

At a Council held at Philadelphia, on Saturday, the 26th September, 1761.

### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

# Richard Peters, Esquire.

The House acquainted the Governor that the amendments made by him to the bill for the relief of William Griffitts were agreed to, which, with the bills assented to, were engrossed; whereupon Mr. Peters compared them with the originals, and having reported to the Governor that they agreed, his Honor sent a message to the House requiring the attendance of Mr. Speaker and the House in the Council Chamber immediately, and they accordingly waiting on the Governor and presenting the three following bills, entitled "An act to enable the owners and possessors of Schuylkill Point Meadow Land, in the county of Philadelphia, to keep the banks, dams, sluices and floodgates in repair and to raise a fund to defray the expenses thereof," "An act for appointing certain persons hereafter

named to apply for and receive the distributive shares and proportions which are or shall be allotted to this province out of the sum and sums of money granted or to be granted by Parliament to His Majesty's Colonies in America," and "An act for the relief of William Griffitts with respect to the imprisonment of his person," the Governor enacted the same into laws.

Colonial Records, Vol. VIII, p. 667.

15.

At a Council held at Philadelphia, on Wednesday, the 27th day of January, 1762.

### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Joseph Turner, Benjamin Chew, Richard Peters,

Esquires.

A bill, entitled "An act to regulate the courts of justice of this province, to limit the continuance of actions, to ascertain the manner of taking the depositions of aged and infirm witnesses, and persons about to leave the province, and to compel the better attendance of jurors on the several courts within this province," having been presented to the Governor by the assembly for his concurrence, was read and considered, and the council adjourned 'till the afternoon.

## P. M. Present as Before.

The above bill was further considered and the following amendments were made thereto and sent, with the bill, to the assembly by the secretary:

"Amendments to the Title of the Bill, entitled "An act to regulate the Courts of Justice of this Province, &c."

"Line 1, after the word [the], insert the words [times of holding the].

"Lines 2, 3, 4. Dele the words [to limit the continuance of actions]."

Amendments to the Bill, entitled "An act to regulate the Courts of Justice, &c."

"Dele from the word [Whereas], in the ante-penult line of the first page, to the word [and], inclusive, in the penult line of page 10.

"Page 11, line 2. Dele the word [transaction]; instead thereof, insert the word [transacting].

"Page 11, line 4. Dele the words [authority aforesaid], and instead thereof insert as follows, viz.: [Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute proprietaries of the Province of Pennsylvania, and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same].

"Dele from the word [and], in the 10th line of page 13, to the word [execution], inclusive, in the 10th line of page 19.

"Page 20. Dele from the word [the], in the fifth line, to the word [Witnesses], inclusive, in the 8th line, and instead thereof insert as follows, viz.: [in all cases where any seafaring persons, or others about to depart from this province, or any ancient or infirm persons shall or may be material witnesses in any action now pending or which hereafter may be brought and depending in any of the courts of civil judicature in this province, the depositions of all and every such witness or witnesses].

"Same page, line 10. After the word [province], add [where such action is or may be depending].

"Same page, line 13. After the word [aforesaid], add [on the trial of the said cause]."

Colonial Records, Vol. VIII, p. 673. Note.—No copy of this bill has been found.

At a Council held at Philadelphia, on Monday, the 8th day of February, 1762.

## Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Benjamin Shoemaker, Benjamin Chew, Richard Peters,

Esquires.

A bill, entitled "An act for recording warrants and surveys, and for rendering the real estates and properties within this province more secure," was read and taken into consideration, and it appearing to be formed on the same plan with the one lately repealed by His Majesty in Council, to contain several matters injurious to the rights of the proprietors of this province, and to be uncapable of amendment, it was returned to the House with the following message:

# A Message from the Governor to the Assembly.

"Gentlemen: I have carefully considered the bill sent up for my concurrence, entitled 'An act for recording warrants and surveys, &c.,' and heartily wish the provisions contained in it had been such that I could freely have given my assent to it; but, instead thereof, I am sorry to find that the present bill is formed on the same plan, and liable to the most material part of the same objections for which your late law respecting these offices, was, after a full hearing, repealed by His Majesty in council.

I have endeavored, as much as in me lay, to amend it so as to make it conformable to what I conceive just and reasonable upon the subject, but have found, upon trial, that the necessary alterations and amendments would be so numerous and perplexing, that a new bill, I hope, agreeable to both our sentiments might, with less difficulty, be framed to answer all the good purposes intended by the law now before me.

I am commanded, gentlemen, by the proprietaries, to declare that it is their desire to render the people as secure in their landed properties as possible, without injuring their ancient officers, or giving up their right of appointing new ones; and I can, for myself, with great truth assure you, that I sincerely entertain the same sentiments, as an earnest whereof I will not scruple to acknowledge that the several offices, where the only evidences of the original rights of the freeholders in this province, have heretofore been deposited and kept, have long appeared to me to stand in need of some regulations.

I have ever been of opinion that a law for erecting the offices of proprietary-secretary and surveyor-general into public offices, and requiring the persons appointed from time to time to fill them, to give sufficient security to the King or to the proprietaries, as should be thought most expedient, in trust nevertheless for the people; and moreover, to oblige them to take an oath or affirmation for the faithful and impartial discharge of their duty, would be extremely proper and of great public utility

It seems also an object, no less worthy the attention of the legislature, that proper precautions should be taken to guard against the mischiefs and confusions that would necessarily ensue to the people in case the records and papers lodged in these offices should be destroyed by fire or any other accident.

I cannot, therefore, but highly approve of the proposal of taking duplicates and fair copies of such records and papers, and confirming such as have heretofore been taken, after they have been carefully compared and examined, to be preserved in some place of safety, to be made use of as evidence on the loss of the originals of any of them, but not otherwise, reserving the appointment of the officer who may have the custody of them, under the like oath and security as above mentioned, to the governor, which is a branch of the royal prerogative that I ought not and, therefore, cannot give up.

A bill formed on these general principles I would at any time cheerfully give my assent to, after which I may be bold to say that the landed estates of the people of this province would be as substantially and effectually secured as they are in any part of the King's dominions, or as in reason and justice could be desired.

But as to the bill now before me, I cannot assent to it as it stands, and, therefore, return it to the House.

JAMES HAMILTON.

"February 8th, 1762."

[No copy of this bill has been found.]

A bill, entitled "An act for opening and better amending and keeping in repair the public roads and highways within this province," was read, considered and agreed to, and returned to the House with a message acquainting them with the governor's assent thereto.

Then was also read a bill, entitled "An act for vesting the State House and other public buildings with the lots of ground whereon the same are erected, together with other lots situate in the city of Philadelphia, in trustees, for the uses therein particularly mentioned," and several amendments were made thereto, which, with the bill, were returned to the House.

A bill, entitled "An act for the recovery of the duties of tonnage upon ships and vessels and certain duties upon wine, rum, brandy and other spirits and upon sugar, which became due by virtue of a law of this province lately expired and which were not received during the continuance thereof, and for appropriating the surplus of the said duties," was read and returned to the House with one amendment.

Colonial Records, Vol. VIII, p. 674.

17.

#### Memorandum:

On the 10th day of February, 1762, a bill, entitled "An act for the more effectual suppressing and preventing of lotteries," was presented to the governor, and the next day returned to the House with one amendment.

Colonial Records, Vol. VIII, p. 676.

At a Council held at Philadelphia, on Tuesday, the 16th February, 1762.

# Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Benjamin Shoemaker, Richard Peters, Thomas Cadwalader, Lynford Lardner,

Esquires.

A bill, entitled "An act to enable the owners and occupiers of the Wiccaco Meadows, in the county of Philadelphia, to keep the banks, dams, sluices and floodgates in repair, and to raise a fund to defray the expense thereof," being sent up to the governor for his concurrence, was read and approved and returned to the House without any amendment.

The Governor laid before the board a letter from the Right Honorable the Earl of Egremont, His Majesty's Principal Seccretary of State, dated the 12th December, 1761, as also one from General Amherst, dated at New York the 9th February, 1762, making a requisition from this province to raise troops for His Majesty's service the ensuing year, which were read and the Governor having prepared a message to the assembly, it was read and sent to the House by the secretary, with the above mentioned letters:

A Letter from the Right Honorable the Earl of Egremont to the Governor.

Whitehall, 12th December, 1761.

"Sir: As the King has nothing so much at heart as to secure and improve the great and important advantages gained since the commencement of this war in North America, and having seen his good dispositions to restore the public tranquillity entirely frustrated by the insincerity and chicane of the court of Versailles, in the late negotiation; and as nothing can so effectually contribute to the great and essential object of reducing the enemy to the necessity of accepting a peace, on terms of glory and advantage to His Majesty's Crown, and beneficial in particular to his subjects in America, as the King's being enabled to employ, as immediately as may be, such part of the regular forces in North America as may be adequate to some great and important enterprise against the enemy, I am commanded to signify to you the King's pleasure, that in order the better to provide for the full and entire security of His Majesty's dominions in North America and particularly of the possessions of His Majesty's conquest there, during the absence of such part of the regular forces, you do forthwith use your utmost endeavors with the council and assembly of your province to induce them to raise, with all possible dispatch, within your government at least the same number of men as was required from your province by Mr. Pitt's letter of December 17, 1760, viz.: two-thirds of what they raised the preceding campaign, and forming themselves into regiments as far as shall be found convenient, that you do direct them to hold themselves in readiness and particularly as much earlier than former years as may be, to march to such place or places in North America as His Majesty's commander in chief there, or the officer who shall be appointed to command the King's forces in those parts shall appoint, in order to be employed there, under the supreme command of His Majesty's said commander in chief, or of the officer to be appointed as above, in such manner as from the circumstances and situation of the enemy's posts and the state and disposition of the Indian nations on that side, he may judge most conducive to the King's service; and the better to facilitate this important service, the King is pleased to leave it to you to issue commissions to such gentlemen in your province as you shall judge from their weight and credit with the people, and their zeal for the public service may be best disposed and enabled to quicken and effectuate the speedy levying of the greatest number of men. In the disposition of which commissions, I am persuaded, you will have nothing in view but the good of the King's service and a due subordination of the whole to His Majesty's commander; and all officers of the provincial forces, as high as colonels, inclusive, are to have rank according to their several respective commissions, agreeable to the regulations contained in His late Majesty's warrant of the 30th December, 1757, which has been renewed by His present Majesty.

"The King is further pleased to furnish all the men so raised as above with arms, ammunitions and tents as well as to order provisions to be issued to the same, by His Majesty's commissaries, in the same proportion and manner as is done to the rest of the King's forces. The whole, therefore, that the King expects and requires from the several provinces, is the levying, clothing and pay of the men; and on these heads, also, that no encouragement may be wanting to this great and salutary service, His Majesty is further most graciously pleased to permit me to acquaint you that strong recommendations will be made to Parliament, in their session next year, to grant a proper compensation for such expenses as above, according as the active vigor and strenuous efforts of their respective provinces shall justly appear to merit.

"It is His Majesty's pleasure that you do, with particular diligence, immediately collect and put into the best condition, all the arms issued last campaign, which can be any ways rendered serviceable or that can be found within your government, in order that the same may be again employed for His Majesty's service.

I am further to inform you that similar orders are sent by this conveyance to Maryland, Virginia, North Carolina and South Carolina. The Northern governments are also directed to raise men in the same manner, to be employed as His Majesty's commander in chief shall judge most conducive for the King's service in North America.

"It is unnecessary to add anything to animate your zeal in the execution of His Majesty's orders, in this important conjuncture, which is finally to fix the future safety and welfare of America, and of your own province in particular; and the King doubts not, from your known fidelity and attachment, that you will employ yourself with the utmost application and dispatch in this promising and decisive crisis.

"I am, with great truth and regard, Sir,
"Your most obedient humble servant,
"EGREMONT.

"Deputy Governor of Pennsylvania."

1762]

A Letter from His Excellency Sir Jeffery Amherst to the Governor.

New York, 9th February, 1762.

Sir: By the general wall packet, which arrived here this morning, I am honored with a letter from the Earl of Egremont, one of His Majesty's Principal Secretaries of State, bearing date the twelfth of December last, wherein his Lordship is pleased to acquaint me that as the King has nothing so much at heart as to secure and improve the great and important advantages gained since the commencement of this war in North America, and having seen his good dispositions to restore the public tranquillity frustrated by the insincerity and chicane of the court of Versailles in the late negotiations, His Majesty is again obliged to take into his royal consideration what ulterior operations can be entered upon by such part of the troops under my command as can be spared for other service, without the least diminution of the full and entire security as well of His Majesty's former dominions as of those acquired by conquest in North America. In order that everything may be in readiness for an early campaign and to be able to employ an adequate number of the regular forces in whatever attack may be resolved upon, His Majesty has thought it necessary to lose no time in dispatching his orders to the several governors in North America, for levying, with the utmost expedition, the quotas required of the respective provinces.

His Majesty's directions on this subject to the several governors are so fully specified in the circular letter wrote by the Earl of Egremont, of which his Lordship has sent me a copy, that it only remains with me most earnestly to entreat you to lose no time in convening your assembly and laying before them the aforesaid letter of the Secretary of State; and that you will forthwith use your utmost endeavors and influence with the council and assembly, to induce them to raise, with all possible dispatch, within your government, at least the same number of men as was required from your province, by Mr. Pitt's letter of December 17th, 1760, viz.: two-thirds of what they raised the preceding campaign.

I cannot think, Sir, that I need urge any arguments to con-32—VI vince you of the necessity of an early compliance with His Majesty's commands, as it is more than probable that this campaign, if opened in time and carried on with vigor, must be that which will at last compel our enemy to treat in earnest, on such terms as will be equally glorious and advantageous for His Majesty's Crown, and permanently beneficial to his American subjects; and I, therefore, trust the assembly will enable you to put those commands into immediate execution, since they terminate in a point wherein they are so nearly concerned and that the King's principal object has been for their present security, as well as their future welfare and prosperity.

You will observe, by the Earl of Egremont's letter, that as a further encouragement to a proper exertion on the part of the provinces, His Majesty has ordered, as heretofore, that the provincial forces should be victualled in the same manner and in the same proportions as the regulars; and that they should be supplied with arms and tents at the expense of the Crown; moreover, that strong recommendations will be made to Parliament, in their session next year, to grant a compensation to the provinces as their respective vigor and strenuous efforts shall justly appear to merit.

I have also, in command from His Majesty, to enjoin you to collect and cause to be put in proper condition all the serviceable arms that can be found within your province; for every one of which that shall be brought to the field and shall not return by reason of being spoiled in actual service, I shall pay the usual allowance of twenty-five shillings per firelock.

As it is very essential to the services I may have in command from the King that I should be, as early as possible, informed of the resolves of your assembly on this head, and of the time the troops will be ready, I beg that as soon as you are acquainted therewith you will signify the same to me by express, that I may regulate myself accordingly.

I have likewise received a letter from the Earl of Egremont, of the same date with the former, signifying His Majesty's intentions of completing the regular regiments serving in North America by recruits to be raised by the several provinces (over and above the quotas demanded in the other letter), on such

terms and conditions as I shall propose. I shall, in obedience thereto, as soon as I have fixed on the numbers necessary to be furnished by the respective provinces, communicate to you the encouragement which His Majesty is graciously pleased to empower me to give for effecting this most essential service; and, in the meantime, I think it my duty to acquaint you of this intended measure, that you may be prepared for exerting your utmost influence with your assembly to grant the number of men that I shall be obliged to require of your province, that His Majesty's commands may be duly obeyed.

I am, with great regard, Sir,
Your most obedient humble servant,
JEFF. AMHERST.

A Message from the Governor to the Assembly.

"Gentlemen: By the packet just arrived, I had the honor to receive a letter from the Right Honorable the Earl of Egremont, one of His Majesty's principal Secretaries of State, setting forth, that the King, having nothing so much at heart as to secure and improve the great advantages gained since the commencement of this war in North America, and having seen his good dispositions to restore the public tranquillity entirely frustrated by the insincerity and chicane of the Court of Versailles in the late negotiations; and as nothing can so effectually contribute to the great and essential object of reducing the enemy to the necessity of accepting a peace on terms of glory and advantage to His Majesty's Crown, and beneficial in particular to his subjects in America as the King's being enabled to employ as immediately as may be such part of the regular forces in North America as may be adequate to some great and important enterprise against the enemy; he is, therefore, commanded to signify to me the King's pleasure, that in order the better to provide for the full and entire security of His Majesty's Dominions in North America and particularly of the possession of His Majesty's conquests there, during the absence of such part of the regular forces, I should forthwith use my utmost endeavors and influence with the council and assembly of this province to raise, with all possible dispatch, within my government, at least the same number of men as was required from this province by Mr. Pitt's letter of the seventeenth of December, 1760, viz.: two-thirds of what they raised the preceding campaign; and that, forming the same into regiments as far as shall be found convenient, I should direct them to hold themselves in readiness and particularly as much earlier than former years as may be, to march to such place or places in North America as His Majesty's commander in chief there, or the officer who shall be appointed to command the King's forces in those parts shall appoint, in order to be employed there, under the supreme command of His Majesty's said commander in chief or of the officer to be appointed as above, in such manner as from the circumstances and situation of the enemy's posts and the state and disposition of the Indian nations on that side, he may judge most conducive to the King's service.

"And the better to facilitate this important service, the King is pleased to leave it to me to issue commissions to such gentlemen in this province as I shall judge, from their weight and credit with the people and their zeal for the public service, may be best disposed and enabled to quicken and effectuate the speedy levying of the greatest number of men; and further, to allow all officers of the provincial forces, as high as colonels, inclusive, to have rank according to their respective commissions, agreeable to the regulations contained in His late Majesty's warrant of the 30th December, 1757, which has been renewed by His present Majesty.

"The King is likewise further pleased to furnish all the men so raised as above with arms, ammunition and tents, as well as to order provisions to be issued to the same by His Majesty's commissaries, in the same proportion and manner as is done to the rest of the King's forces.

The whole, therefore, that the King expects and requires from the several provinces is the levying, clothing and pay of the men; and on these heads also, that no encouragement may be wanting to this great and salutary service, His Majesty is further most graciously pleased to permit me to be acquainted that strong recommendations will be made to Parliament, at their sessions next year, to grant a proper compensation for such expenses as above, according to the active vigor and strenuous efforts of the respective provinces shall justly appear to merit.

"In consequence of the above requisition, and of His Majesty's further intentions signified to him by the Secretary of State, I have also received a letter from his Excellency Sir Jeffery Amherst, commander in chief of the forces in North America, which, as the matter's therein contained will probably soon come under your consideration, I have judged proper to communicate to you.

"As by the letters above mentioned, which I have ordered to be laid before you, you will be fully possessed of what the King expects and requires of you on this important occasion, it would be needless for me to attempt enlarging thereon, since the reasons and interesting motives therein set forth to induce a speedy and effectual compliance with His Majesty's demand, are so striking and self-evident that they must necessarily lose of their force when handled by any inferior authority. theless, as in obedience to the King's command, it is my duty forthwith to use my best endeavors and influence to induce you to raise, with all possible dispatch, at least the same number of men as was required from this province by Mr. Pitt's letter of the seventeenth of December, 1760, viz.: two-thirds of what you raised the preceding campaign. I do, accordingly, in the strongest and most earnest manner, recommend this measure to be pursued by you, as being what, in my opinion, the present situation of these colonies loudly call for, and by your speedy and effectual compliance with which you cannot fail to entitle yourselves to the continued favor and protection of the best of Kings. "JAMES HAMILTON.

"February 16th, 1762."

Then were read and considered two bills which had been just sent up to the Governor for his concurrence, entitled as follows, viz.:

"An act to enable the owners and possessors of the Southern District of Darby Marsh or Meadow Ground, in the county of Chester, to embank and drain the same, to make and keep the outside banks and dams in good repair and to raise a fund to defray the yearly expenses accruing thereon." "An act for vesting the State House and other public buildings with the lots of ground whereon the same are erected, together with two other lots situate in the city of Philadelphia, in trustees for the uses therein particularly mentioned."

"An act for the more effectual suppressing and preventing of lotteries."

"An act to enable the owners and occupiers of the Wiccaco Meadows, in the county of Philadelphia, to keep the banks, dams, sluices and floodgates in repair and to raise a fund to defray the expense thereof."

"An act to enable the owners and possessors of a certain tract of marsh and meadow land therein described, situate in the counties of Philadelphia and Chester, to keep the banks, dams, sluices and floodgates in repair, and to raise a fund to defray the expense thereof."

"An act to enable the owners and possessors of the Southern District of Darby marsh or meadow ground, in the county of Chester, to embank and drain the same, to make and keep the outside banks and dams in good repair and to raise a fund to defray the yearly expenses accruing thereon."

The House then adjourned to the 8th of March without the Governor's consent.

Colonial Records, Vol. VIII, p. 683.

20.

Tuesday, the 9th March, 1762.

### Memorandum.

The assembly having acquainted the Governor, by two members, that a quorum was met, pursuant to their adjournment, and that the House was ready to proceed on the business laid before them at their last meeting, and desired to know if his Honor had anything further to communicate to them. The Governor sent to the House the following message, accompanied with letters from the Earl of Egremont and Sir Jeffery Amherst, received since the adjournment of the House.

"An act to enable the owners and possessors of a certain tract of Marsh and Meadow Land therein described, situate in the counties of Philadelphia and Chester, to keep the banks, dams, sluices and floodgates in repair, and to raise a fund to defray the expense thereof."

Colonial Records, Vol. VIII, p. 677.

#### 19.

Thursday, the 18th of February, 1762.

Memorandum.

The Governor sent down to the House the two above mentioned Meadow Bills, having agreed to the first and made one small amendment to the latter, and at the same time ordered the secretary to acquaint the House that he had appointed Mr. Peters and him to compare all the bills, to which he had given his assent, with the engrossed copies.

## Eodem Die, P. M.

The Governor being in the council chamber, received a verbal message from the House by two members that the House proposed to adjourn till the 15th March next, to which his Honor answered that he could not consent to such an adjournment.

The bills that had passed the House with the Governor's concurrence, having been compared with their copies, and the speaker, with the House, attending according to order, the speaker presented the seven following bills to his Honor to be passed, which were accordingly enacted into laws and a warrant signed for affixing the Great Seal thereto.

The Laws passed are as follows, viz.:

"An act for opening and better amending and keeping in repair the public roads and highways within this province."

"An act for the recovery of the duties of tonnage upon ships and vessels and certain duties upon wine, rum, brandy and other spirits and upon sugar, which became due by virtue of a law of this province lately expired, and which were not received during the continuance thereof, and for appropriating the surplus of the said duties."

"An act for vesting the State House and other public buildings with the lots of ground whereon the same are erected, together with two other lots situate in the city of Philadelphia, in trustees for the uses therein particularly mentioned."

"An act for the more effectual suppressing and preventing of lotteries."

"An act to enable the owners and occupiers of the Wiccaco Meadows, in the county of Philadelphia, to keep the banks, dams, sluices and floodgates in repair and to raise a fund to defray the expense thereof."

"An act to enable the owners and possessors of a certain tract of marsh and meadow land therein described, situate in the counties of Philadelphia and Chester, to keep the banks, dams, sluices and floodgates in repair, and to raise a fund to defray the expense thereof."

"An act to enable the owners and possessors of the Southern District of Darby marsh or meadow ground, in the county of Chester, to embank and drain the same, to make and keep the outside banks and dams in good repair and to raise a fund to defray the yearly expenses accruing thereon."

The House then adjourned to the 8th of March without the Governor's consent.

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#### Memorandum.

The assembly having acquainted the Governor, by two members, that a quorum was met, pursuant to their adjournment, and that the House was ready to proceed on the business laid before them at their last meeting, and desired to know if his Honor had anything further to communicate to them. The Governor sent to the House the following message, accompanied with letters from the Earl of Egremont and Sir Jeffery Amherst, received since the adjournment of the House.

A Letter from the Right Honorable, the Earl of Egremont, to the Governor.

"Whitehall, December 12, 1761.

"Sir: The King, having taken into his most serious consideration how highly essential it is to the interests and security of his subjects in North America that the regular regiments serving in that country be recruited with all convenient expedition to their full complement of effectives, and at the same time seeing the impracticability of completing them from Great Britain, considering how this country is drained by the great number of men furnished for the various services in all parts of the world; I am, therefore, to signify to you the King's pleasure that you do, immediately on the receipt of this letter, exert your utmost influence to induce your province to carry into the most speedy and effectual execution this very important object, by immediate compliance with any requisition which Sir Jeffery Amherst shall, in consequence to His Majesty's orders, make for furnishing on certain conditions which he will explain to you, such a number of recruits from your province as he shall demand as their quota towards completing the regular regiments which have been sent to America, for the defense and protection of the possessions of His Majesty's subjects there; and the King cannot doubt but that the province will cheerfully and readily comply with this reasonable demand so obviously calculated for their own security and advantage, at the same time that your zeal for His Majesty's service will naturally excite you to use all your influence and power in bringing effectually to bear a measure which His Majesty has so much at heart and with regard to which any failure or disappointment would be extremely disagreeable.

"I have it also in command from the King to acquaint you, that though the present situation of affairs would have justified the having required of the provinces as large a number of men [as] they ever have raised for any of the former campaigns, instead of the quota which was demanded the last year; yet His Majesty, considering the high importance of the service, which makes the subject of this letter, and being desirous to ease the burdens of his faithful subjects as far as shall be consistent with

their own safety, has been pleased to require only the same number of men as for the last year, in order thereby to facilitate a measure so essential as the completing the regular regiments by recruits to be furnished from the provinces in North American; and the King is persuaded that the said provinces, duly sensible of His Majesty's tender and paternal care for their welfare, will, in return, readily and cheerfully comply with the orders now sent you.

"I am, with great truth and regard, Sir,
"Your most obedient, humble servant,
"EGREMONT.

"Deputy-Governor of Pennsylvania."

A Letter from His Excellency General Amherst to the Governor.

"New York, February 21st, 1762.

"Sir: As I acquainted you in my letter of the 9th instant, that I had been honored with His Majesty's commands for completing the regular corps serving in North America, by recruits to be raised by the several provinces, on such terms and conditions as I should propose; in consequence of these commands and in obedience thereto, I have duly considered not only the numbers that will be necessary to be furnished by the respective colonies, but the encouragement to be given to induce the men voluntarily to enlist into the service, which I am persuaded, if properly backed by the provinces [will] have the desired effect.

The number of men expected from your province for this service, with the method proposed for raising them, I shall now lay before you, and the Earl of Egremont's letter, which I herewith enclose to you, will show you how much the King has this measure at heart, and how disagreeable any failure or disappointment therein would be to His Majesty.

"The quota to be furnished by your province, agreeable to the proportions from the other colonies, is four hundred and eighty-two men; I must, therefore, most earnestly request you will use your utmost influence with the assembly to raise that number over and above those already demanded by my letter of the ninth instant, by paying them the same levy money as to the

others; and as an encouragement to induce the men to enter into the regular service, I propose to allow five pounds New York currency, bounty money, to each man not under eighteen nor above forty years of age, who shall enlist to serve during the war or until the regiments return to Europe; they shall be clothed and enter into pay without any further expense to the province than their first levying; and at the expiration of their time above mentioned shall be sent back to their respective homes; and in order to encourage the provincial officers to forward this essential service, I leave it to you to appoint any officer or officers you shall think proper to persuade the men to enter into the regular service on the above conditions; for every one of which that he shall so enlist and that is approved of by a regular officer whom I shall appoint for that purpose, the said provincial officer shall receive a reward of forty shillings, New York currency; it will, therefore, be necessary that I have the earliest notice of the time when you think the men will be raised, that I may send an officer to approve of them, receive them and to pay the bounty and reward as already promised.

I have only to add, that to render this service effectual, and to prevent desertion, I shall expect the province will provide for replacing such men as do desert, which, when known, I am persuaded will prevent any of them from leaving their corps, since they cannot expect protection in the colonies.

"You will please to observe that the execution of this measure must, by no means, retard or interfere with the requisition made by His Majesty for the provincial service. The King, ever mindful of the ease and welfare of his faithful subjects, demands only such assistance as may be granted without subjecting them to any heavy burden, and, therefore, has been pleased to make his requisitions agreeable thereto; and I trust, from your known zeal for His Majesty's honor and the good of the service, you will enforce the necessity of both measures, when you meet your assembly, in such manner that, as these measures are calculated for the prosecution of a war, in which the immediate security and future interests of the provinces are so essentially concerned, they will cheerfully and readily comply

with His Majesty's commands and thereby approve themselves faithful and obedient subjects to the best of Kings.

"I am, with great regard, Sir,
"Your most obedient, humble servant,
"JEFF. AMHERST."

A Second Letter from His Excellency General Amherst to the Governor.

"New York, February 22nd, 1762.

"Sir: I am this moment favored with your letter of the seventeenth instant, acquainting me with the reason for your having adjourned your assembly for a fortnight, with which I am well satisfied, as I am in hopes they will, by that time, be fully prepared for complying with the King's commands, contained in the Earl of Egremont's two letters, the last of which respecting the filling up of the regular corps by recruits from the several provinces you will receive by this post, together with one from myself on the same subject.

"I am, with great regard, Sir,
"Your most obedient, humble servant,
"JEFF. AMHERST."

A Message from the Governor to the Assembly.

"Gentlemen: Since your adjournment, I have been honored with a second letter from the Right Honorable the Earl of Egremont, one of His Majesty's Principal Secretaries of State, bearing date the twelfth of December last, acquainting me that the King, having taken into his most serious consideration, how highly essential it is to the interests and security of the subjects in North America, that the regular regiments serving there be recruited with all convenient expedition to their full complement of effectives; and at the same time seeing the impracticability of completing them from Great Britain, considering how that country is drained by the great number of men furnished for the various services in all parts of the world, he is, therefore, commanded to signify to me the King's pleasure, that immediately after the receipt of the said letter, I should exert my utmost influence to induce this province to carry into the most speedy

and effectual execution this very important object, by an immediate compliance with any requisition Sir Jeffery Amherst shall, in consequence of His Majesty's orders, make for furnishing, on certain conditions, which he will explain to me, such a number of recruits from this province as he shall demand, as their quota towards completing the regular regiments which have been sent to America for the defense and protection of the possessions of His Majesty's subjects there. And that the King cannot doubt but that the provinces will cheerfully and readily comply with this reasonable demand, so obviously calculated for their security and advantage, which His Majesty hath so much at heart, and with regard to which any failure or disappointment would be extremely disagreeable.

"His Lordship is also, by His Majesty's command, further pleased to acquaint me that though the present situation of affairs would have fully justified the having required of the provinces as large a number of men as they ever have raised for any of the former campaigns, instead of the quota which was demanded last year, yet, that His Majesty, considering the high importance of the service which makes the subject of his letter, and being desirous to ease the burdens of his faithful subjects, as far as shall be consistent with their own safety, hath been pleased to require only the same number of men as for the last year, in order thereby to facilitate a measure so essential as the completing the regular regiments, by recruits to be furnished from the provinces in North America; and that the King is persuaded that the said provinces, duly sensible of His Majesty's tender and paternal care for their welfare, will, in return, readily comply with the orders now sent.

"At the same time that Sir Jeffery Amherst transmitted to me the above mentioned letter from the secretary of state, he was, likewise, pleased to honor me with one from himself, ascertaining, pursuant to the trust reposed in him by the King, as well the number of men required to be furnished by this province for completing the regular corps serving in North America as the method proposed for raising them, by which you will perceive that the number expected from us, agreeable to the proportions from the other colonies, amounts to four hundred and eighty-two men, over and above those required by his letter of the ninth of the last month. And as an inducement to the men to enter into the regular service, he proposes that we should pay to them the same levy money as is given to the provincials, in addition to which, as a further encouragement, he will allow the sum of five pounds, New York currency, to each man approved of by a regular officer to be appointed for that purpose, who shall enlist to serve during the war or until the regiments shall return to Europe; that the men so raised shall be clothed and enter into immediate pay, without any further expense to the province than their first levying, and at the expiration of their time, as above mentioned, shall be sent back to their respective homes.

"He is also pleased to signify to me that to render this service effectual and to present desertion, he does expect that the province will provide for replacing such men as do desert; which, when known, he is persuaded, will prevent any of them from leaving their corps, since, in that case, they cannot expect protection in the colonies. And lastly, that the execution of the above measure must by no means retard or interfere with the requisition made by His Majesty for the provincial service.

When you call to mind, gentlemen, the present critical state of affairs, both in Europe and America, the unhappy prospect of a continuance of the war with France, and the great reason there is to apprehend that His Majesty may soon be obliged to enter into a new one with another formidable power, for vindicating the honor of his crown and the commercial interests of his subjects, in which the service of the regular regiments, when complete, cannot fail to be of the utmost importance.

"When you reflect on the seasonable and powerful protection these colonies have received from the mother county, by means of these very regiments and the utter impracticability of recruiting and completing them from Great Britain, already drained of men by the various and extensive services in all parts of the world, and, above all, how much His Majesty hath the execution of this measure at heart and how very disagreeable any disappointment therein must consequently prove to him:

"I say, gentlemen, when you shall have duly weighed and



considered these several very important and interesting circumstances, I flatter myself and, indeed, cannot entertain a doubt but that you will cheerfully and readily comply with His Majesty's commands hereby signified to you, and in so doing approve yourselves faithful and affectionate subjects to the best of sovereigns; to which I most earnestly press and exhort you, and for your more particular information I have ordered the several letters from which this message is chiefly an extract to be laid before you.

"JAMES HAMILTON.

"March 8th, 1762."

Colonial Records, Vol. VIII, p. 685.

21.

Memorandum, 17th March, 1762.

The Governor, not having received any message from the House since their sitting, relating to His Majesty's demands, sent them the following message, viz.:

A Message from the Governor to the Assembly.

"Gentlemen: It being of the greatest importance to the King's service that Sir Jeffery Amherst should, as soon as possible, be acquainted with your proceedings upon His Majesty's two requisitions, some time since laid before you, that he may know not only what assistance he has to depend upon from this province in the ensuing campaign, but your resolutions likewise with respect to the other essential measures of a quota of men for filling up and completing the regular regiments, so strongly recommended and enjoined by His Majesty, Lam to desire that you will acquaint me with your determination upon those several heads, that I may forthwith apprise him thereof, in order that His Excellency, who impatiently expects an account of them, may be thereby enabled to regulate his measures accordingly.

"JAMES HAMILTON.

"March 17th, 1762."

And the same day the Governor received from the House the following answer, viz.:

A Message to the Governor from the Assembly.

"May it please your Honor:

"The representatives of the people of this province, ever desirous of demonstrating their loyalty to the Crown and the utmost readiness in complying with His Majesty's most gracious requisitions, as far as the circumstances of the province will permit, at the beginning of this sitting, took into consideration His Majesty's demand of a number of provincials to serve under his commander in chief in these parts, upon which they have cheerfully resolved, notwithstanding the heavy burden of taxes already imposed on this young colony, to raise a thousand effective men to be employed as His Majesty's commander in chief shall order and appoint. A bill for this purpose is now before us, and will, in a short time, be presented to your Honor for your assent.

"It would have given us pleasure could we accede to the other requisition made on this province, of furnishing a number of men towards recruiting the regular corps serving in North America, but when we take a view of the large number of recruits had from this province for that purpose, which we apprehend amount to more than has been supplied by all the other colonies, besides, whereby it is already drained of men, we are obliged to inform your Honor, we find it impracticable to comply with a measure so warmly recommended by His Majesty's Secretary of State, and we cannot doubt, were His Majesty apprised of the large number of men recruited in this province and the present difficulties of the people arising therefrom, our inability in this respect will not be esteemed an instance of want of due regard to the requisition of the Crown.

"Signed by order of the House,

"ISAAC NORRIS, Speaker.

"March 17th, 1762."

Colonia! Records, Vol. VIII, p. 691.



22.

At a Council held at Philadelphia, on Tuesday, the 23rd day of March, 1762.

### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Benjamin Shoemaker, Richard Peters, Joseph Turner,

Esquires.

In pursuance of the Governor's message of the 16th ultimo, to the assembly, setting forth His Majesty's requisitions from this province to raise and pay a number of troops for the service of the present war, the House sent up to the Governor for his concurrence a bill, entitled

"An act for striking the sum of seventy thousand pounds in bills of credit and giving the same to His Majesty, and for providing a fund for sinking the bills of credit to be emitted by virtue of this act."

Which the Governor having considered and found to be directly repugnant to the judgment and determination of His Majesty in council on acts of the like kind, which had been repealed, his Honor laid the bill before the board, with his objections thereto, and a message to the House, which was read and approved, and the bill was returned to the House with the following message, viz.:

A Message from the Governor to the Assembly.

"Gentlemen: On the important occasion of His Majesty's several requisitions from this province, it would have given me the greatest pleasure to have received such a bill from you for carrying them into execution, as I could cheerfully and willingly have given my assent to.

"And I flatter myself that the solemn decision of His late Majesty in council on certain points long contested between the different branches of our legislature would have fixed them so certainly that each would have rested satisfied and that no future contention could have arisen about them. "Judge, then, of my surprise and concern, when, on perusal of the supply bill now sent up for my concurrence, I found it to contain the very same clauses and provisions on account of which, principally, some of your late laws were repealed.

"I would have amended your bill, Gentlemen, in such manner as to have made it correspond with the declared judgment and opinion of his late Majesty's Privy Council on an act of the like sort, and with the stipulations entered into on your behalf by your agents in England, but that was found impracticable without being obliged, in a great measure, to new model the bill, a province more particularly belonging to you. I shall, therefore, content myself at present with pointing out to you two clauses or previsions which were required by their Lordships to be inserted in a former supply bill as a necessary condition to prevent it's being repealed, one of which is not only entirely omitted, but both of them are virtually contravened by the present bill, and the opinion of the Lords of Trade with regard to a third point in which the bill now before me is liable to the strongest and most material objection.

"The first relates to the disposition of the public money, on which their Lordships are pleased to insist, That the governor's consent and approbation be made necessary to every issue and application of the money to be raised by virtue of such act.'

"The second regards acts for creating and issuing paper bills of credit in lieu of money, on which their Lordships have given their judgment that the payments by the tenants to the proprietaries of their rents shall be according to the terms of their respective grants as if such acts had never passed.

"The third relates to the connecting and blending things together in the same bill, which have not the least necessary relation to each other, on which the Lords of Trade were pleased to express themselves in the following words:

"We have, likewise, my Lords, another very material objection to this bill, as it is now constituted, arising from the reemission being connected with the loan to Colonel Hunter, with which it has not the least necessary relation. By this method of blending together in the same bill, things which are in their own nature totally separate, the Crown is reduced to the alterna-

tive of passing what it disapproves or of rejecting what may be necessary for the public service. And this manner of framing laws has been always so exceptionable to His Majesty that in governments more immediately under the control of the Crown, it is a standing instruction to the governor not to give his assent whenever it was proposed that matters of a different nature should be regulated in the same law.

"I do, therefore, earnestly request you, gentlemen, to reconsider your bill, and to make such alterations therein as may render it agreeable to the judgment and opinion of His Majesty's Privy Council in the points above mentioned; and, further, that in consequence of the opinion of the Lords of Trade, so strongly and deliberately given, you will also exonerate it of their Lordship's objections by separating from the bill of supply all such parts and clauses as have no necessary relation to it, that I may be at liberty to judge more impartially of their merits when regulated apart and by themselves.

"When these essential objections, Gentlemen, which I have now laid before you, are removed, I am in hopes there are few other difficulties remaining but what may be got over in favor of so necessary and important a measure as ought to make the principal object of this bill, and for that purpose I now send it down to you.

"JAMES HAMILTON.

"March 23rd, 1762."

"A bill, entitled 'An act for erecting the Southern suburbs of the city of Philadelphia into the district of Southwark, for making the streets and roads already laid out therein public roads and highways and for regulating such other streets and roads as the inhabitants thereof may hereafter lay out, and for other uses and purposes therein mentioned,' being presented to the Governor for his assent, was read and approved and returned to the House without any amendment or objection to it.

"Then was read also a bill, entitled 'An act for regulating, pitching, paving and cleansing the highways, streets, lanes and alleys and for regulating, making and amending the water-courses and common sewers within the inhabited and settled

parts of the city of Philadelphia, and for raising of money to defray the expenses thereof."

Eodem Die.

Memorandum.

The assembly sent up the supply bill to the Governor by two members with a verbal message that the House adhered to the bill.

Colonial Records, Vol, VIII, p. 692.

23.

24th March, 1762.

The Governor returned to the House the bill, entitled "An act for regulating, pitching, paving and cleansing the high-ways, &c.," with a few literal amendments, having no objection to it in general.

The secretary, by the Governor's order, acquainted the House that his Honor intended to send the House his result upon the supply bill some time to-morrow morning.

Colonia! Records, Vol. VIII, p. 692.

24.

25th March, 1762.

Memorandum.

The Governor returned the supply bill, with the following message to the assembly:

A Message from the Governor to the Assembly.

"Gentlemen: The alterations proposed to be made in your supply bill were in consequence of the judgment and opinion of his late Majesty's Most Honorable Privy Council, on a bill of the like nature with this when, after having heard the merits of it debated before them by learned counsel on both sides, their Lordships were pleased to report it to His Majesty as their opinion that the same ought to be repealed, unless, among others, two of the alterations I have now offered to your consideration should be made therein.

And as that august judicatory is deservedly constituted the

last resort in all cases from the plantations, I was in hopes and, indeed, made no doubt but you would have acquiesced with their determination and regulated your bill in conformity to it.

It could not, therefore, but give me the greatest concern to find, by your message of the twenty-third instant, that you adhered to the bill as sent up to me, thereby refusing to admit of any of the alterations proposed and thence, of necessity, depriving His Majesty of all benefit from your grant.

For whatever the present occasion for supplies may be (and you have heard from the best authority that they were never greater), I am confident His Majesty would think them purchased at too dear a rate were they to be obtained by giving up any of the just, legal and essential powers of government.

"I forbore, Gentlemen, to enter particularly into several other parts of your bill, which, though not agreeable to me, might yet have been got over in favor of so important a service, and confined myself to the three particulars which had already undergone the censure of the Board of Trade and Privy Council, and received their determination. I cannot, however, omit to observe that although you are pleased to style it a grant to His Majesty of seventy thousand pounds, yet, in reality, not more than thirty thousand of this money, even at the highest estimate, was to have been made use of for the purpose of the King's requisitions, a considerable part of the remainder being ordered to be applied to the discharging of old debts and new services, many of which had not the least necessary relation to the present supply bill, and others for which payment had already been ordered from the treasury and loan office.

You are sensible, Gentlemen, that the sole intention of your continuing to sit at this time, was to consider of His Majesty's requisitions, and to make provision for carrying them into execution, and this, I acknowledge, would have been done in a certain, though very inadequate degree, by the bill sent up for my concurrence, had you not at the same time rendered it ineffectual by having blended with it several matters totally foreign to, and which had no necessary connection with the supply granted to the King; and, moreover, by your insisting to retain in it several clauses and provisions which flatly contradict the judgment

and decree of His late Majesty in council, which I shall always think it my duty to regard with the greatest deference and respect.

"If the several provisions respecting the debts now chargeable, or which may hereafter become chargeable to the province (and with which your supply bill is clogged), be really for the public good, as I profess to have as high a regard for the honor and interest of the province as any person in it, you may be assured that I now am, or shall at any future time, be ready to take into consideration and to concur with you in any measure which shall appear just and reasonable for rendering them beneficial to the public. I can, therefore, see no occasion you have for blending or tacking them to the present bill of supply, as you thereby necessarily overthrow your own work and, instead of advancing the King's service, impede and obstruct it.

"Upon the whole, Gentlemen, if, as I would willingly hope, you are seriously and heartily disposed to render the grant you have made to the Crown effectual, you will no longer delay to separate from your bill such parts and clauses as have no necessary relation to the principal end and intention of it, the supply of His Majesty. And you will also adopt and insert in it the two clauses or provisions I mentioned to you in my message of the twenty-third instant, which were required by the Lords of His Majesty's Council to be inserted in a former supply bill, as a necessary condition to prevent its being repealed, the one for the sake of justice, the other from a regard to the legal powers of government and as not at all interfering with any of the rights or privileges of your House, either under your charter or other fundamental law of this province; which, if you shall longer decline to do, I am afraid you will find no little difficulty in convincing His Majesty's ministers of the sincerity of your intentions in the grant you have now nominally made to the King.

"Let me, therefore, intreat you, Gentlemen, before it is too late, to reconsider your bill and to return it again to me as soon as conveniently you can, freed and exonerated of the above mentioned objections in such manner as that I may cheerfully concur with you in giving my assent to it without injuring the just rights of government or wounding my own honor. For however

solicitous I may be that His Majesty should receive from this province the best aid and assistance we are able to afford him at this critical and important juncture, which so loudly and importunately calls for it, yet I can never consent to obtain it by inflicting so deep and severe a wound both in the executive and legislative powers of this government as the passing of your bill, as it now stands, would amount to.

"JAMES HAMILTON.

"March 25th, 1762."

The same day two members waited on the Governor to know what time he would be pleased to appoint for the attendance of the House in order to pass the two bills which had received his assent.

25.

26th March, 1762.

The Governor, by his secretary, having acquainted the House that he was in the council chamber and required their attendance, the Speaker and the House waited on his Honor accordingly and presented to him the two following bills, which the Governor enacted into laws and by his warrant ordered the Great Seal to be affixed thereto, viz.:

"An act for erecting the southern suburbs of the city of Philadelphia in [to] the district of Southwark, &c."

"An act for regulating, pitching, paving and cleansing the highways, streets, &c."

The speaker then acquainted the Governor that the House proposed to adjourn till the 6th of September next, to which the Governor, seeing no probability of their agreeing about the terms of the supply bill, made no objection.

Colonial Records, Vol. VIII, p. 695.

26.

At a Council held at Philadelphia, on Thursday, the 13th of May, 1762.

#### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor.

Joseph Turner,
Richard Peters,
Benjamin Chew,
Thomas Cadwalader,

Yesterday the Governor received from the House for his concurrence two bills, entitled as follows, which were this day read and approved, viz.:

"An act for granting to His Majesty the sum of twenty-three thousand five hundred pounds for the purposes therein mentioned."

"An act to enable the trustees of the State House to purchase certain lots of ground, the remainder of the square whereon the State House now stands."

Colonial Records, Vol. VIII, p. 715.

27.

14th May, 1762, P. M.

Memorandum.

The Governor received the following message from the assembly in answer to that he had sent to the House of the 3rd instant, at the opening of their sessions.

A Message to the Governor from the Assembly.

"May it please your Honor:

"On our first meeting at this inconvenient season of the year, we immediately took into consideration your message of the third instant and, with the utmost dispatch, have presented to your Honor a bill for granting to His Majesty the sum of twenty-three thousand five hundred pounds for the protection of the city of Philadelphia and other purposes for His Majesty's services.

"As to the requisitions of the 12th of December, laid before

our House at their last sitting, and again repeated in your present message, give us leave to remind your Honor that we, at that time, presented you with a bill for that purpose, to which you were pleased to refuse your assent; the answer to the reasons offered in your message for refusing to pass that bill are contained in the report of our committee, approved of by the House, with a copy of which we shall furnish you.

"To which we beg leave to add, that had your Honor accepted the aids offered, the men probably might then have been raised, and His Majesty's service received the benefit intended from them; since which, such as were then likely to enlist, have engaged in contracts for the season and the province has been so drained of men by the recruiting parties of the Crown and neighboring governments, that we now apprehend should we grant the aids required there would be no possibility of raising the men.

"As to the requisition relating to recruiting His Majesty's regular corps, we find no reasons to alter our sentiments thereon, communicated to your Honor in our message of the seventeenth of March last, to which we beg leave to refer.

"Signed by order of the House,

"ISAAC NORRIS, Speaker.

"May 14th, 1762.

The Governor then returned to the House, by the secretary, the two above mentioned bills, with a verbal message that his Honor agreed to them and was ready in the council chamber to enact the same into laws, for which purpose he required the attendance of the speaker and the House.

Soon after the speaker and the whole House waited on the Governor accordingly, in the council chamber, where his Honor passed those two bills into laws and signed a warrant to affix the Great Seal to them.

Then the speaker delivered to the Governor the following report of the committee on the Governor's messages of the 23rd and 25th of March last, relating to the supplies then offered, viz.:

The Report of the Committee on the Governor's Messages.

"In obedience to the order of the House, we have taken into consideration the Governor's messages relating to the bill for granting seventy thousand pounds to His Majesty's use, and notwithstanding the pains the Governor has taken in both of them to demonstrate a design in the assembly of infringing 'the just, legal and essential powers of government,' of inflicting a deep and severe 'wound on both the executive and legislative part thereof, and of depriving His Majesty of all benefits from their own grant,' which he is pleased to call a 'nominal one;' when their conduct in this respect is impartially weighed, your committee conceive those high charges will vanish and the whole censure with all the ill consequences attendant on his refusal of the supplies, can be imputed with propriety to none but himself.

"Your committee also conceive the representative body of the people have no motive to deviate from their duty in the mode of granting supplies to the Crown, none to wound the constitution or to trifle with His Majesty by offering him 'nominal grants,' with a design at the same time 'of depriving him of all benefit therefrom; they have no attachment to private interest to interfere in this respect, no instruction from individuals to restrain their understandings, nor any inducement but the service of the Crown and the welfare of the subjects arising from the free and unfettered exercise of their reason and judgment. It is their undoubted right to grant supplies in their own way, so as to be least oppressive and injurious to the people on whom they are to be levied. This, your committee apprehend, they have done, in such manner as by no means merited the severe animadversions made on their conduct by the other branch of the legislature.

"But, more particularly to consider the Governor's objections: The first is that there is no clause in the bill by which 'the Governor's consent and approbation is made necessary to the issue and application of the money to be raised by virtue thereof.'

"How groundless this objection is will readily appear from the words of the bill, which directs that certain commissioners therein named, 'or a major part of them, with the consent and approbation of the Governor, shall order and appoint the disposition of the moneys arising by virtue of that act.' From the natural and common import of these expressions, 'the Govern-



or's consent and approbation' are made necessary to the issue and application of the money granted by the act, for we see no difference between 'the issue and application' of money and the 'ordering and appointing the disposition' thereof, which, by the express words of the bill, was to be done 'with the consent and approbation of the governor.' This appears so self evident that we cannot think it necessary to make any further remarks thereon.

"The second objection appears to us as unreasonable as the The Governor insists that a clause should first was groundless. be inserted in the bill, 'that the payments by the tenants to the proprietaries of their rents, shall be according to the terms of their respective grants, as if such acts had never passed.' Here, your committee beg leave to remark, that as the proprietaries' contracts for quit-rents and many ground-rents reserved. and other contracts amongst private persons are made in the same terms, there appears no reason why the former should have been particularly exempted in our late bill of the same tenor with all the other paper money acts of this province, which, though they are as much affected, the interest of every inhabitant of Pennsylvania under like circumstances were both assented to by the proprietary governors and confirmed by the And your committee are of opinion, with the House, that all contracts and property of the same nature within this government, ought to be equally secured by its laws, since a depreciation of our currency must otherwise necessarily ensue, to the great loss of the British merchants trading hither and of the whole province; yet the clause so repeatedly insisted on by the governor as a necessary part of our bill, besides the partial exemption it contains of the proprietary contracts must tend to produce this depreciation of the currency, which it ought to be the principal concern of every person engaged in the administration to guard against and prevent.

"And as to the last objection, we are at a loss to remark particularly on it, as the governor, in neither of his messages, has been explicit enough to enable us to discover his meaning with certainty. In his first, he contents himself with hinting (by inserting a transcript from a late report from the board of trade) that the bill contained 'things which are, in their own nature, totally separate,' but leaves the House the task of guessing what those things are. In his second message, he is a little more plain and has enabled us to discover that the several matters he conceives to be totally foreign to the supplies granted to the Crown, are 'the debts chargeable to the province,' and made payable out of the moneys offered by the bill; upon perusal of which we find the purposes, the expense whereof was to be defrayed thereby, besides the clothing and paying a thousand effective men (officers included) for the King's service were:

"First, certain purposes mentioned and contained in an act of assembly, entitled 'An act for appointing certain persons thereinafter named, to apply for and receive the distributive shares and proportions which are or shall be allotted to this province, out of the sum and sums of money granted or to be granted by Parliament to His Majesty's Colonies in America,' which were to be defrayed, by the tenor of the bill, out of the same fund from which the supplies were offered. These purposes were principally debts due from the Crown, one of them to defray a debt due to the persons whose servants were enlisted by His Majesty's recruiting officers; another to pay a debt due to the tavern-keepers on whom His Majesty's soldiers were billeted without receiving an adequate compensation for the same. A third for the payment of the Governor' judges and other certificates due to persons concerned in the administration of gov-A fourth and fifth to pay a thousand pounds given towards opening the river Schuylkill and three thousand pounds for supporting the Pennsylvania Hospital, but to all these purposes the Governor had given his consent by the before recited law, so that we cannot suspect that any objection would arise to the re-enacting in this bill what he had before so fully and effectually assented to.

The other purposes are particularly expressed in the bill; one of them was 'for the support of such of the late inhabitants of Nova Scotia as were real objects of charity,' and sent into this province by his late Majesty's military officers, another for the payment of certificates for salaries of officers and other incidental charges of government. A third for paying and sinking

certain provincial notes which had been issued for the use of the Crown, and a fourth for paying for two hundred copies of laws to be given to the proprietaries, the governor, assembly and the several officers of justice within this province, and a fifth towards defraying the expense of a treaty expected to be held with the western and northern Indians. All of them, purposes to which the Governor had before given his assent by the above recited law, or for the payment of debts arising from a grant heretofore made to the Crown or for the immediate use of His Majesty or his officers of government.

"Upon the whole, your committee conceive the first of the Governor's objections is expressly supplied by the words of the bill; that the second is so unreasonable and full of ill consequences to the welfare of the province, that no legislature ought to comply with it; and that the third can by no means have any weight, when it is considered that the purposes he is pleased to call 'totally separate in their own nature,' are either such as he has expressly approved of by a law now in force or for the service of the Crown; which is nevertheless submitted to the House by

"JOSEPH FOX,
"JOSEPH GALLOWAY,
"SAMUEL RHOADS,

"EDWARD PENINGTON,
"HENRY WYNKOOP,
"JOHN MORTON."

The Governor then acquainted the speaker that he was unwilling to detain the House any longer at this busy season of the year, but if he should find it necessary to make any observations on their report, he would send a message to them at their next meeting.

The House adjourned to the 6th day of September next. Colonial Records, Vol. VIII, p. 715.

28.

At a Council held at Philadelphia, on Tuesday, the 18th January, 1763.

#### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Joseph Turner,
Richard Peters,
Benjamin Chew,
Esquires.

# A Message from the Governor to the Assembly.

"Gentlemen: "An act of assembly of this province, passed in the year 1759, entitled 'An act for granting to His Majesty the sum of one hundred thousand pounds,' &c., having, pursuant to the royal charter, been laid before His Majesty in Council, and the merit thereof having been fully debated, as well on the part of the honorable proprietaries as of the assembly and people of this province, before a committee of His Majesty's Most Honorable Privy Council for Plantation Affairs, their Lordships, after a full hearing, were pleased to report as their opinion, to His Majesty, that the said act was fundamentally wrong and unjust, and ought to be repealed unless certain alterations and amendments specified in the body of the said report could be made therein.

"Whereupon, the agents for the assembly, sensible of the inconveniences which must necessarily arise to the people from a repeal of the said act, and desirous to prevent the same, did propose, agree to and subscribe in the books of the Privy Council, an engagement in the following words, viz.:

"We, the undersigned, Benjamin Franklin and Robert Charles, agents for the province of Pennsylvania, do hereby consent that in case an act passed in the said province in April, 1759, entitled 'An act for granting to His Majesty the sum of one hundred thousand pounds and for striking the same in bills of credit, in the manner hereinafter directed and for providing a fund for sinking the said bills of credit by a tax on all estates, real and personal, and taxables within this province,' shall not be repealed by His Majesty in Council, we, the said agents, do undertake that the assembly of Pennsylvania will prepare and pass and offer to the governor of the said province of Pennsylvania an act to amend the afore mentioned act according to the amendments proposed in the report made by the Lords of the Committee of Council this day, upon the one hundred thousand pounds act, and other Pennsylvania acts; and we will indemnify the proprietaries from any damage they may sustain by such act not being so prepared and passed by the assembly and offered to the Governor.

"In full confidence that the above engagement would be duly performed on the part of the assembly and in respect to other good purposes of the said act, their Lordships were thereupon induced to represent to His Majesty that he might rely upon this undertaking for the assembly by their agents, and permit the said act to stand unrepealed, because the objections upon which they should have founded their advice for the repeal would certainly be removed in a way more agreeable and convenient to the province.

"His Majesty having taken the said report into his royal consideration, was pleased with the advice of His Privy Council, to approve of all that was therein proposed to be done, and by his order in council of the second of September, 1760, to declare, that the above-mentioned act of assembly should accordingly stand unrepealed.

"Very soon after the aforesaid report and order of council came to my hands, viz.: on the twenty-eighth day of January, 1761, I laid them before the then assembly, acquainting them at

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the same time by a message in writing, that whenever they should think proper to prepare and offer to me a bill to alter and amend the afore-mentioned act so as to make it conformable to the sentiments of the Lords of the Committee aforesaid, approved by His Majesty, and to the express stipulations of their agents, as set forth in the said report, I should think it my duty to concur with them by enacting it into a law. To this, some time after, they were pleased to return me an answer, though by no means a satisfactory one, inasmuch as they did not declare whether they would or would not comply with the engagements entered into by their agents in their behalf, although I had more than once particularly urged them for an explicit answer to that point.

"In this situation, things have hitherto continued and the performance of the stipulations entered into by your agents, on your behalf, yet remains to be complied with, although there is the greatest reason to believe that those very stipulations were the means of exempting the province from the many inconveniences it would have been subjected to by a repeal of the afore-mentioned act of assembly.

"I am now to acquaint you, Gentlemen, that I have a command from the proprietaries, to move you to pass a bill for altering and amending the aforesaid act of 1759, for granting one hundred thousand pounds to His Majesty, &c., so as to make it conformable to the terms expressed in the report of the committee aforesaid and to the engagements entered into by your agents; and I do, accordingly, recommend this measure as fit to be taken into your present consideration, not only because it appears to me to be extremely just, but because a refusal or further delay on your part may be productive of those mischiefs and inconveniences which a former assembly seemed so much to apprehend from a repeal of the said law, and which it was manifestly the intention of your agents to avert by entering into the aforesaid engagements. And I cannot but think it a lucky circumstance that one of the gentlemen who acted as your agent in England during the whole of this transaction is now upon the spot and capable of explaining to you the very good reasons and motives that induced him to enter into those engagements.

"JAMES HAMILTON.

"January 18th, 1763."

The Governor laid before the board two bills sent up by the House for his Honor's concurrence, the one entitled "A supplement to an act, entitled 'An act to enable the owners and possessors of a certain tract of marsh and meadow land therein described, situate in the counties of Philadelphia and Chester, to keep the banks, dams, sluices and floodgates in repair and to raise a fund to defray the expense thereof," and the other entitled "An act for extending and enlarging the southern district of Darby marsh or meadow ground," which were read and considered and there appearing nothing objectionable to them, they were returned to the House, with a verbal message that the Governor was ready to pass them into laws whenever they should be presented to him for that purpose.

Colonial Records, Vol. IX, p. 9.

29.

At a Council held at Philadelphia, on Tuesday, the 8th of February, 1763.

#### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Richard Peters,
Benjamin Chew,
William Logan,
Esquires.

The three following bills having been sent to the governor for his concurrence, his Honor laid them before the board and they were read and considered, viz.:

"An act directing the choice of inspectors and for holding the general elections in the counties of Lancaster, York, Cumberland, Berks and Northampton," which was sent to the House with a verbal message that the Governor agreed to it.

"An act the better to enable the persons therein named to

hold land and to invest them with the privileges of natural born subjects of this province," which was returned to the House with amendments, founded on the petition of Nicholas Weaver and a certificate of his taking the oaths, which were sent with the bill.

And "An act for the relief of persons whose apprentices or servants have enlisted in the late King's or his present Majesty's service," which was also ordered to be returned to the House with several amendments thereto.

Colonial Records, Vol. IX, p. 17.

30.

At a Council held at Philadelpnia, on Tuesday, the 15th February, 1763.

### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Joseph Turner,
William Logan,
Richard Peters,
Benjamin Chew,

The Governor laid before the board three bills that had been presented to him by the assembly for his concurrence, viz.: one entitled "An act for the regulation of apprentices within this province," which was read and considered and returned to the House with a few small amendments.

Another bill, entitled "An act for regulating the fines imposed upon the assessors chosen or to be chosen within this province," which, being read and approved, was returned to the House with a verbal message that the Governor agreed to it.

And the other bill, entitled "An act to limit the continuation of actions in the courts of judicature within this province," which was read and considered and being disapproved was returned to the House with the following message:

# A Message from the Governor to the Assembly.

"Gentlemen: I have very carefully weighed and considered the bill, entitled 'An act to limit the continuance of actions in the courts of judicature within this province,' I would with great pleasure concur with you in any laws which, in my judgment, had a tendency to promote the public good and the happiness of the people, but I am fully satisfied that this bill will by no means answer those valuable ends. On the contrary, from the nature of it, in many cases it may, and some of necessity must, be subversive of justice.

"The judges of every court of record have a power to make rules for the expediting and bringing to a speedy determination all cases depending before them, which are binding and have the force of laws to all intents and purposes on the suitors and gentlemen of the law in such courts.

"In the several courts of judicature in England the rules made by the judges are different, according to their different circumstances and constitutions, and are varied from time to time and new ones made, when, upon experience, they are found to be defective; if, therefore, any inconveniences have arisen in the courts of this province from the too long continuance of actions, I cannot but be of opinion that it is much safer to leave this mischief to be redressed by the courts, who are entrusted with the administration of justice, in whose hands the wisdom of our Mother country hath lodged this power and who ought to judge of the reasonableness of any motion to put off a trial than to lay them under the necessity of compelling the parties to a trial at a certain fixed time, let the exigency or circumstances of the case be what they may; for which reason I cannot assent to this bill.

"JAMES HAMILTON.

"February 15th, 1763."
Colonial Records, Vol. IX, p. 17.

31.

Tuesday, the 22nd February, 1763.

Memorandum.

The assembly having presented to the Governor for his con currence the following bills, entitled

"An act to enable certain persons therein named to erect a court-house at Easton, in the county of Northampton, and to levy a tax on the inhabitants of the said county to defray the expense thereof," and

"An act concerning horses, cattle and sheep trespassing within this province,"

His Honor returned them to the House by the secretary, with his assent to the former and one amendment to the latter, without any other objection to it.

Colonial Records, Vol. IX, p. 19.

32.

Wednesday, the 23rd February, 1763.

The Governor having received no answer from the assembly to his message of the 18th January last, sent to the House the following message by the secretary, viz.:

A Message from the Governor to the Assembly.

"Gentlemen: In pursuance of orders from the Honorable Proprietaries, I moved you, by my message of the eighteenth of last month, to pass a bill for altering and amending the act passed in this province, in the year one thousand seven hundred and fifty-nine, for granting one hundred thousand pounds to His Majesty, &c., so as to make it conformable to the sentiments of the Lords of the Committee of His late Majesty's Most Honorable Privy Council, expressed in their report of the twenty-eighth of August, one thousand seven hundred and sixty, and to the stipulations entered into on your behalf by your agents in England, both which have been long since laid before you.

"But as no bill hath yet been offered to me for that purpose and you have not been pleased to return any answer to my message, I am under the necessity of mentioning this matter again, and of desiring that you will, in your present session, acquaint me with your resolution, whether you will or will not comply with the engagements entered into by your agents, by passing and offering to the governor of this province, 'An act to amend the afore mentioned act,' according to the amendments proposed in the report of the committee of council aforesaid, in order that I may transmit the same to the proprietaries with all convenient dispatch.

"JAMES HAMILTON.

"February 23rd, 1763."
Colonial Records, Vol. IX, p. 19

33.

Friday, 25th February, 1763.

The Governor received by two members a message from the House of assembly, in the words following, viz.:

A Message to the Governor from the Assembly.

May it please your Honor:

"We have taken into our most serious consideration your messages of the 18th of January and the 23rd instant, which we find to be of the same tenor with your message of the 28th January, 1761, to which the then assembly returned an answer wherein they say, after the strictest inquiry, it appeared to them, that the proprietaries had never received the least injury from the act for granting one hundred thousand pounds to the King's use, passed in the year 1759; and that, if it should appear to the House that any injustice was offered to the proprietaries, or if the governor, in behalf of the proprietaries, should point out any injury they might receive in the execution of the said act, they did not doubt the assembly for the time being would cheerfully and readily offer a bill to the Governor to do them justice; but as no injustice has since appeared to us or been showed by the Governor to be done the proprietaries, we are of the same sentiments with that House, who, on the most careful inquiry, found that there had not been any injustice done to the proprietaries or attempts made to rate or assess any part of their estates higher than the estates of like kind, belonging to the inhabitants, are rated and assessed, but, on the contrary, that they were, in many instances, rated below others;' and, as we find by the returns now before us from the several counties, that no change has been since made in the mode of taxation, we hope we

may refer to our former message to the Governor on this head, and more especially as the acts by which their estates are taxed are temporary and will expire in a few years by their own limitation.

"Signed by order of the House,

"ISAAC NORRIS, Speaker.

"February 26th, 1763."

Colonial Records, Vol. IX, p. 20.

34.

At a Council held at Philadelphia, on Monday, the 28th February, 1763.

#### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Richard Peters, Benjamin Chew, William Logan,

Esquires.

A bill, entitled "An act for preventing abuses in the Indian Trade, for supplying the Indians, friends and allies of Great Britain, with goods at more easy rates and for securing and strengthening the peace and friendship lately concluded with the Indians inhabiting the northern and western frontiers of this province," having been presented to the Governor for his concurrence, was laid before the board, read and duly considered, and it appearing to contain a clause directly repugnant to the judgment of His Majesty and Council in points of the same kind and being also liable to other objections, it was amended and the board were of opinion that it should be returned to the House with the amendments, and the following message which the Governor had prepared for that purpose.

A Message from the Governor to the Assembly.

"Gentlemen: On considering the bill, entitled 'An act for preventing abuses in the Indian Trade, &c.,' I am necessarily led to remind you that by his late Majesty's order in council of the

2nd of September, 1760, 'An act of assembly of this province, passed in the year 1759, for granting to His Majesty the sum of one hundred thousand pounds,' was adjudged to be fundamentally wrong and unjust, in many instances respecting the taxation of the proprietaries' estate; and that the engagement entered into by your agents in England and signed by them in the books of the council (by which they undertook that the assembly would prepare and pass and offer to the Governor of this province, an act to amend the afore mentioned act according to the amendments proposed in the report of the Lords of the Council aforesaid), was the principal motive and inducement which prevailed on His Majesty to suffer that act to stand unrepealed at that time.

And although a former assembly, before whom the said order of council was laid, did not incline to carry that engagement into execution and yourselves, in your present session, notwith-standing my recommendation, have also declined to comply with it, yet, after so full and explicit a declaration from the Crown, I say I little expected to find that in any future bill for the raising of money, you would have inserted a clause that prescribes the very same mode of taxation which His Majesty in Council had pronounced to be fundamentally wrong and unjust, as it appears you have done by the bill now under consideration.

"I am very sensible, Gentlemen, that a law for regulating the Indian Trade and to prevent those people from being ill-used or defrauded in their commerce with us, may be very conducive to His Majesty's interest and the welfare of the province; and therefore, I am very well disposed to concur with you in enacting one for that purpose, provided it be so framed that I can, consistent with my duty, give my assent to it. But at the same I think it incumbent on me to acquaint you, that in respect to points of this nature the judgment of the King and Council has, and I trust ever will have, such weight and influence with me as to prevent my acting in direct opposition to it.

"I flatter myself that on reflection you will be of opinion that I could not be justified in departing from the rule of taxation which after mature deliberation has received the approbation and sanction of so wise and august a body as that of the coun-

cil board; and that you will either alter the bill herewith sent down, so as to make it conformable to the above-mentioned order of council, or consider of some other less exceptionable means to secure the money which the commissioners for the Indian Trade may have occasion to borrow; and that no time may be lost I have ordered the secretary to lay before you some amendments which appear to me necessary to be made in the other parts of the bill.

### "JAMES HAMILTON.

# "February 28th, 1763."

A bill, entitled "An act to prevent and remove certain nuisances in and near the city of Philadelphia," was also laid by the governor before the board, read and considered and several amendments being made thereto, it was ordered to be returned to the House with the same.

A bill, entitled "A supplement to the act, entitled 'An act for regulating, pitching, paving and cleansing the highways, streets, lanes and alleys and for regulating, making and amending the watercourses and common sewers within the inhabited and settled parts of the city of Philadelphia, and for raising of money to defray the expenses thereof," being presented to the governor for his concurrence was read and considered and ordered to be returned to the House with some amendments.

The four following bills having been presented to the governor by the assembly for his concurrence, were also laid before the board, read and approved, and the secretary was directed to carry them down to the House with a verbal message that the governor assented to them, viz.:

"An act for erecting a house of correction in the county of Lancaster."

"A supplement to the act, entitled 'An act for opening and better amending and keeping in repair the public roads and highways within this province.'"

"An act for altering and enlarging the time of holding the courts of the general quarter sessions of the peace and gaol delivery in the county of Bucks, and for enlarging the time of holding the courts of general quarter sessions of the peace and gaol delivery in the county of Chester.

"An act to continue an act, entitled 'An act for regulating wagoners, carters, draymen and porters within the city of Philadelphia and for other purposes therein mentioned.'"

Colonial Records, Vol. IX, p. 20.

35.

Thursday, the 3rd March, 1763.

Memorandum.

The assembly having requested the Governor, by a verbal message, that he would appoint two members of council to compare the bills which had received his assent, with the engrossed copies, his Honor named Richard Peters and Thomas Cadwalader, Esquires, for that purpose, who, with two members of the House, examined and compared the same in the afternoon and his Honor appointed to-morrow at 12 o'clock for the attendance of the House in order to enact them into laws.

Colonial Records, Vol. IX, p. 23.

36.

Friday, 4th March, 1763.

The Governor, by his Secretary, acquainted the assembly that he required the attendance of Mr. Speaker and the gentlemen of assembly in the council chamber, to pass the bills to which he had given his assent. Accordingly the speaker and the whole House attended in the council chamber, where his Honor enacted fifteen bills into laws and signed a warrant for affixing the Great Seal thereto.

The titles of the several laws passed are as follows, viz.:

- 1. "An act to continue an act, entitled 'An act for regulating wagoners, curters, draymen and porters within the city of Philadelphia, &c.'"
- 2. "An act for erecting a house of correction in the county of Lancaster."
- 3. "An act for altering and enlarging the time of holding the courts of general quarter sessions of the peace and gaol delivery in the county of Bucks, and for enlarging the time of holding the courts of general quarter sessions of the peace and gaol delivery in the county of Chester."

# 1763] The Statutes at Large of Pennsylvania.

- 4. "A supplement to the act, entitled 'An act for opening and better amending and keeping in repair the public roads and highways within this province."
- 5. "An act directing the choice of inspectors and for holding the general elections in the counties of Lancaster, York, Cumberland, Berks and Northampton."
- 6. "An act concerning horses, cattle and sheep trespassing within this province."
- 7. "An act to prevent and remove certain nuisances in and near the city of Philadelphia."
- 8. "An act to enable certain persons therein named to erect a court-house at Easton, in the county of Northampton, and to levy a tax on the inhabitants of the said county to defray the expense thereof."
- 9. "An act for the regulation of apprentices within this province."
- 10. "An act the better to enable the persons therein named to hold lands and to invest them with the privileges of natural born subjects of this province."
- 11. "An act for the relief of persons whose apprentices or servants have enlisted in the late King's or His present Majesty's service."
- 12. "An act for regulating the fines imposed upon the assessors chosen or to be chosen within this province."
- 13. "An act for enlarging and extending the Southern District of Darby Marsh or Meadow Ground."
- 14. "A supplement to an act, entitled 'An act to enable the owners and possessors of a certain tract of marsh and meadow land therein described, situate in the counties of Philadelphia and Chester, to keep the banks, dams, sluices and floodgates in repair and to raise a fund to defray the expense thereof.'"
- 15. "A supplement to the act, entitled 'An act for the regulating, pitching, paving and cleansing the highways, streets, lanes and alleys, and for regulating, making and amending the watercourses and common sewers within the inhabited and settled parts of the city of Philadelphia, and for rais ing of money to defray the expense thereof."

The speaker then acquainted the Governor that some further business having come before the House this morning, they intended to make a short adjournment to the 28th of this instant March, instead of that to the 12th September, which they had yesterday proposed. And his Honor, having no objection thereto, the House made their adjournment accordingly.

Colonial Records, Vol. IX, p. 23.

37.

At a Council held at Philadelphia, on Saturday, the 2nd April, 1763.

#### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,

Richard Peters, Benjamin Chew, William Logan,

Esquires.

The assembly, having met on the 28th March last, pursuant to adjournment, sent up to the Governor, for his concurrence, the two following bills, entitled "An act for preventing abuses in the Indian Trade and for securing and strengthening the peace and friendship lately concluded with the Indians inhabiting the northern and western frontiers of this province," and,

"An act for the better regulating the keepers of inns, taverns and other houses of entertainment and more effectually to prevent the keeping public houses without license, and to suppress immorality within this province," which bills, being read and considered, the former was returned by the secretary with one amendment and the latter with the following message to the House, refusing the Governor's assent.

# A Message from the Governor to the Assembly.

"Gentlemen: Being well assured that the laws relative to the keeping of public houses within this province are fully sufficient to answer the purposes of preserving good order and regularity in them; and that were the justices made acquainted, from time to time, with any transgression of the said laws, they would readily use their authority to enforce the execution of them and punish the offenders, I cannot think the provisions in the bill, entitled 'An act for the better regulating inns, taverns,' &c., sent up for my concurrence to be at all necessary and, therefore, cannot give my assent to the said bill.

"JAMES HAMILTON.

"April 2nd, 1763."

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### Eodem Die, P. M.

The Governor, having appointed this afternoon for the passing of the Indian Trade Bill, sent a verbal message to the House by the secretary, that he waited in the council chamber for that purpose, and required the attendance of the House. The speaker and the whole House attended accordingly and presented to the Governor the bill, entitled "An act for preventing abuses in the Indian Trade, and for securing and strengthening the peace and friendship lately concluded with the Indians inhabiting the northern and western frontiers of this province," which his Honor enacted into a law and signed a warrant for affixing the Great Seal thereto.

Colonial Records, Vol. IX, p. 24.

38.

At a council held at Philadelphia, on Friday, the 8th July, 1763.

#### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Richard Peters, Thomas Cadwalader, Benjamin Chew,

Esquires.

The Governor laid before the board two bills which the House sent up for his Honor's concurrence, viz.:

"An act for regulating the hire of carriages to be employed in His Majesty's service."

"An act for regulating the officers and soldiers in the pay of this province." And the same being read and approved were sent by the secretary to the House with the Governor's assent.

The House then sent two members to the Governor, to know at what time his Honor would be pleased to pass the said bills; and the Governor desired then to acquaint the House that he should be ready, in the council chamber, at half an hour after 12 this afternoon for that purpose.

### Eodem Die, 12½ O'Clock.

The Governor, by his Secretary, acquainted the House that he waited in the council chamber and required their attendance there, in order to pass the bills which had received his assent. The Speaker and the whole House attended accordingly and presented to the Governor the bill, entitled "An act for regulating the hire of carriages to be employed in His Majesty's service," and a bill, entitled "An act for regulating the officers and soldiers in the pay of this province," which his Honor enacted into laws and signed warrants for affixing the Great Seal thereto. The laws were ordered to be deposited in the Rolls Office after they were sealed.

Colonial Records, Vol. IX, p. 36.

39.

At a Council held at Philadelphia, on Thursday, the 29th September, 1763.

#### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,

Richard Peters, Benjamin Chew,

Esquires.

A bill, entitled "An act for striking and emitting the sum of twenty-five thousand pounds in bills of credit, and giving the same to the King's use, and for providing funds to sink the bills so to be emitted by continuing an excise upon wine, rum, brandy and other spirits, and by applying the net proceeds of the stock and effects now in the hands of the commissioners for Indian Affairs," having been sent up by the Governor for his concurrence, his Honor, after considering it and finding it to contain a clause directly repugnant to the judgment and determination of His late Majesty in Council on points of the same kind, laid the bill before the board, with other objections to it, and the following message to the House, which was read and approved, and the bill was ordered to be returned to the House with the message.

# A Message from the Governor to the Assembly.

"Gentlemen: I observe, by the supply bill sent up for my concurrence, entitled 'An act for striking the sum of twenty-five thousand pounds and giving the same to the King's use, &c.,' that the sum of twenty-five thousand pounds in paper bills of credit is directed to be struck and issued in lieu of money, and that the said bills are made a legal tender in discharge of all debts, dues, and demands whatsoever, although at the same time everybody must be sensible that they are by no means equal to, but fall greatly short of the nominal value at which they are to be emitted. Hence it is that with real concern I find myself obliged to differ with you upon this head and to remind you of certain transactions before His late Majesty in Council, relative to an affair of precisely the same nature with that under consideration.

"You will be pleased, Gentlemen, to remember that among the several provisions in the supply bill of one thousand seven hundred and fifty-nine, to which your proprietaries objected, one was that the bills of credit to be thereby issued, were made a legal tender for the discharge of all debts and contracts whatsoever at the rates at which they were emitted, by which they conceived themselves liable to great injustice in the payments of their rents and quit-rents and, thereupon, made application to His Majesty in Council for redress. And the Lords of the Council having heard, among others, the merits of the abovementioned clause or provision fully canvassed and debated before them by learned counsel on both sides, were pleased to report to His Majesty their opinion that the said act was fundamentally wrong and unjust, and ought to be repealed unless certain alterations and amendments by them specified could



be made therein: Of which alterations, that which principally relates to the present bill is to the effect following, to wit: That instead of the clause which makes paper bills of credit at the rate they are emitted a legal tender to the proprietaries for their rents, which are reserved in sterling, the provisions should be, that the payments by the tenants to the proprietaries of their rents, shall be according to the terms of their respective grants as if such act had never been passed. Upon which report of their Lordships there is little room to doubt but the first-mentioned act would have been repealed at that time, had not your agents, then in England, interposed and prevented it by undertaking by their agreement entered in the books of the Privy Council, that (in case the said act should not be repealed) the assembly would amend it according to the amendments proposed by the Lords of the Committee of Council in their report of that day. Upon which said undertaking on behalf of the assembly, His Majesty was graciously pleased so far to rely as to permit the said act to stand unrepealed.

"Having thus laid before you the proceedings of our superiors in [a] case exactly similar to that now before us, I may venture to appeal to yourselves whether, after so explicit a declaration from His Majesty and his Privy Council, it can be reasonably expected of me to act in direct contradiction to their judgments and give my assent to a measure which, after the most mature deliberation they have pronounced to be wrong and unjust? Not to mention the very great inconveniences that might result to the province, should I presume, in contempt of His late Majesty's decree, to pass this bill into a law, since it can scarcely be doubted but that application would immediately be made for its repeal in the same manner as was done before, and with the greater prospect of success for its having been passed in direct opposition to the declared sentiments of His Majesty and his ministers; and I leave it to you to judge of the confusion that would ensue upon the repeal of any of our money laws while the bills are circulating in the hands of the people.

"I observe, also, that by the bill now under consideration, although the Indian Trade Commissioners are directed to dispose of the goods and effects in their possession and to pay into the hands of the provincial treasurer the amount thereof in bills of credit, to the end they may be sunk and destroyed, yet, by a subsequent clause, it is provided that the money arising from that fund is not to be actually sunk, but still to be kept on foot, if the excise, together with the said fund, does not produce, in seven years, sufficient to sink the twenty-five thousand pounds to be emitted by the bill and pay all incidental charges. will please to remember, Gentlemen, that the sum of fourteen thousand pounds was, by a late law, taken out of the money granted by Parliament for the purpose of easing the people of the heavy taxes imposed upon them, and lent to the Indian Trade Commissioners, to enable them to carry on that trade, hoping by that means to cultivate the friendship of the Indians. But, as by the unhappy war we are now engaged in with the Indians, all trade with them is at an end, and you yourselves are of opinion there is no further occasion for that fund, I cannot see how you can, consistent with the end for which the Parliamentary grant was made or, indeed, with justice to the people, now avoid the sinking that money in ease of their taxes. itself is sufficient to sink the twenty-five thousand pounds to be emitted by the present bill, or, if it was not, you have made provision for its continuing after the term of seven years until the said sum shall be sunk.

"I must, therefore, entreat you, Gentlemen, to reconsider your bill and amend it in these particulars, so that I may, consistent with my duty, be able to give my assent to it and thereby do my part for establishing a fund so absolutely necessary at this time, to enable us to protect our frontiers and to put a stop to the cruel and barbarous depredations now carrying on by the savages against the persons and effects of our inhabitants.

"JAMES HAMILTON.

"September 29th, 1763."

The Governor also laid before the board a bill sent up by the House for his concurrence, entitled "An act to continue an act, entitled 'An act for regulating and continuing the nightly watch and enlightening the streets, lanes and alleys of the city of Philadelphia and for raising money to defray the necessary

expense thereof," which, being read and approved, was returned to the House with a verbal message that the Governor agreed to it.

### Eodem Die, A. M.

The House again sent up the supply bill to the Governor by two members, with a verbal message that the House did not incline to make any alterations in it and requested that his Honor would pass it as it now stands.

### 4 O'Clock, P. M.

The Governor again returned, by the secretary, the supply bill, with the following message to the House, viz.:

# A Message from the Governor to the Assembly.

"Gentlemen: I am extremely concerned to find, by your verbal message of this day, that you decline amending your bill for granting money to the King in the particulars by me pointed out to you.

"I beg leave, before you separate, once more to recommend to your unprejudiced consideration the great mischiefs which may ensue to the province from your so tenaciously adhering to a measure that has been solemnly adjudged against you by His Majesty in Council.

"There has not been wanting, on my part, the most sincere disposition to perfect this bill by enacting it into a law. But as you have not thought fit to accept of it on such terms as my duty would allow me to pass it, I must endeavor, in case any misfortune should follow, to satisfy myself with the reflection that nothing hath been proposed by me, but what hath appeared to me to be founded in justice and equity and hath been so adjudged by the most explicit declaration of the King and Council on a similar clause in a former bill of our legislature.

"JAMES HAMILTON.

"September 29th, 1763."

Colonial Records, Vol. IX, p. 52.

40.

# Friday, the 30th September, 1763, A. M.

The Governor having considered the two following bills sent up by the House for his concurrence, returned them to the House by the secretary, with a verbal message that he gave his assent to them, viz.:

"An act for the erecting a light-house at the mouth of the bay of Delaware, at or near Cape Henlopen, for placing and fixing buoys in the said bay and river Delaware, and for appointing commissioners to receive, collect and recover certain sums of money heretofore raised by way of lottery, and to appropriate the same to the purposes aforesaid," and

"An act to enable the commissioners for paving the streets of the city of Philadelphia to settle the accounts for the managers, and to sue for and recover from several persons such sums of money as are now due and unpaid on account of the several lotteries set up and drawn for paving the streets of the said city."

# Eodem Die, 5 O'Clock P. M.

The Governor having again received the supply bill by two members this forenoon, with a verbal message from the assembly that they had reconsidered the bill, but declined making the amendments proposed by the Governor, and desired that he would give his assent to it as it stood; his Honor not thinking it consistent with his duty to pass it without the proposed alterations, ordered the secretary to return the bill and acquaint the House that he could not recede from the proposals he had made with respect to their amending it, and, at the same time, to inform them that he was waiting in the council chamber to receive the whole House in order to pass the bills which had received his assent. The Speaker and the House accordingly attending in the council chamber, the Governor enacted the following bills into laws, and signed a warrant for affixing the Great Seal thereto, viz.:

1. "An act to continue an act, entitled 'An act for regulating and continuing the nightly watch and enlightening the streets, lanes and alleys of the city of Philadelphia, &c.'"

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- 2. "An act for erecting a light-house at the mouth of the bay of Delaware, at or near Cape Henlopen, for placing and fixing buoys, &c."
- 3. "An act to enable the commissioners for paving the streets of the city of Philadelphia to settle the accounts of the managers, and to sue for and recover from certain persons such sums of money as are now due and unpaid on account of the several lotteries, &c."

Colonial Records, Vol. IX, p. 52.

### 41.

At a Council held at Philadelphia, on Saturday, the 22nd of October, 1763.

### Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor, &c.

Benjamin Shoemaker, William Logan,

Esquires.

The Governor laid before the board the three following bills sent up by the House for his Honor's concurrence, which were read and approved, and the secretary directed to return them to the House with a verbal message that the Governor agreed to them, viz.:

"An act to prohibit the selling of guns, powder or other warlike stores to the Indians."

"An act for granting to His Majesty the sum of twenty-four thousand pounds for the defense and protection of this province," and

"An act for regulating the officers and soldiers in the pay of this province."

At the same time, the House desired the secretary to give notice to the Governor that they will attend his Honor, if it suits him, at half after twelve o'clock this day, to pass the said bills into laws.

# Eodem Die, 1 O'Clock.

The Governor acquainted the House by the secretary that he

was waiting in the council chamber, where he required the attendance of the speaker and members of assembly, in order to pass the bills which had received his assent. The House attending accordingly, the speaker presented the following bills, which his Honor immediately passed and signed a warrant for affixing the Great Seal thereto, and ordered them to be deposited in the Rolls Office, viz.:

"An act to prohibit the selling of guns, gun-powder or other warlike stores to the Indians."

"An act for granting to His Majesty the sum of twenty-four thousand pounds for the defense and protection of this province and for other purposes therein mentioned," and

"An act for regulating the officers and soldiers in the pay of this province."

The speaker then acquainted the Governor that the House proposed to adjourn to Monday, the 16th of January next, to which his Honor made no objections.

Two members of assembly waited on the Governor and delivered him a written message from the House, in the following words, viz.:

A Message to the Governor from the Assembly.

"May it please your Honor:

"We return you our thanks for laying before us the letter you have received from Sir Jeffery Amherst, of the sixteenth of this instant, with the intelligence inclosed therein from Sir William Johnson respecting the bad intentions of the savages against our frontiers. For this intelligence we are likewise obliged to His Excellency, but at the same time we are greatly at a loss how to understand the meaning or design of that part of his letter wherein he expresses his 'surprise at the infatuation of the people of this province, who (he alleges) tamely look on while their brethren are butchered by the savages, when, without doubt it is in their power, by exerting a proper spirit, not only to protect the settlements but to punish any Indians that are hardy enough to disturb them.' Can it be possible that the general is, at this day, unacquainted with the vigorous mean-

Metal

ures which this government has pursued, much beyond any of the rest of the colonies, for the protection and defense of their long-extended frontier?

"Your Honor well knows that on the eleventh of June last, you convened the provincial commissioners, who cheerfully agreed to raise an hundred men for the reinforcement of Fort Augusta, a garrison on Susquehanna, then but weakly manned, and a post of great importance to the provincial defense.

"On the fourth of July the assembly met, in pursuance of your summons, when you laid before them the necessity of an additional number of men to repel the savage attempts of those barbarians; and that, in pursuance of a letter from the general, which you also communicated to them, with equal cheerfulness and expedition they granted the additional number of seven hundred men and passed a law for furnishing carriages for the transportation of provisions for the use of the troops destined for the western communication.

"These troops, so granted, were accordingly raised with the utmost expedition and they have been, as we are informed, placed at proper stations on the frontiers, under your command, and been active since in the protection thereof, and that with more vigor and spirit than has been known or experienced [in] the whole late war. Several parties of Indians have been intercepted and repulsed, and the inhabitants in a great measure preserved from the intended massacres, and a large body of them now engaged in an expedition against the Great Island, which has heretofore served as a station from whence the savages usually issue for the annoyance of our settlements.

"As these things are facts, we cannot help, in our turn, being much surprised at the censure contained in His Excellency's letter, by which it is evidently intimated that the good people of this province are utterly regardless of the distresses of their fellow subjects and 'tamely look on while they are butchered by the savages.'

"A hard censure this! But for what part of the government it was intended is not clear from the letter. If intended for your Honor, we have reason to believe you have done everything, as commander in chief of the forces, that could be expected. If

for this part of the legislature, the large number of men in the pay of this government at a time when the province is loaded with a debt extremely burdensome (occasioned by their late generous and large aids to the Crown for the protection of the colonies during the late war), will evidently show it is without foundation; and if the poor people on our frontiers, their present distressed situation, and the uncommon military spirit and resolution so manifest among them ever since the late Indian incursions, ought at least to have excused them from it.

"But the General is of opinion that it is in our power, by exerting a proper spirit, not only to protect the settlements, but to punish any Indians that are hardy enough to disturb them. Would he give himself the liberty of one moment's reflection on our circumstances, must be not see the injustice as well as impracticability of our defending a frontier near three hundred miles in length, which covers and protects, in a great measure, those of Maryland and New Jersey, without the least contribution or aid from either of those colonies. Is it reasonable that this province, already heavily loaded with debt, should be at the sole expense of defending not only her own frontiers but so great a part of those of her neighboring colonies? not evidently impossible that this young colony, against whom the Indian force has been principally aimed, should alone without any assistance from the rest of the provinces, defend a frontier so extensive against all the lurking and perfidious parties of so powerful a confederacy as is mentioned in the General's intelligence?

"You, Sir, are well acquainted with the circumstances of the province and its present distress, and, therefore, we presume you readily see how vain the expectation must prove, that any one particular colony can defend itself against the united power of so many confederated nations.

"Signed by order of the House,

"ISAAC NORRIS, Speaker.

"October 22nd, 1763."

Colonial Records, Vol. IX, p. 63.

#### SECTION III.

1.

A BILL FOR GRANTING TO HIS MAJESTY THE SUM OF THIRTY THOU-SAND POUNDS AND FOR STRIKING THE SAME IN BILLS OF CREDIT, AND FOR PROVIDING A FUND FOR SINKING THE SAID BILLS OF CREDIT.

Whereas it hath been represented to this House by the Secretary of State's letter, dated the seventeenth day of December, 1760, that His Majesty, having nothing so much at heart as by the most vigorous prosecution of the war to reduce the enemy to the necessity of accepting a peace on terms of glory and advantage "to His Majesty's Crown and beneficial in particular to his subjects in America," and for these purposes requesting the aids of his loyal and dutiful subjects within this province, we, the representatives of the freemen of the Province of Pennsylvania, being desirous to assist His Majesty towards these salutary ends, as far as lies in our power, have cheerfully and voluntarily given and granted and do hereby give and grant unto His Majesty the sum of thirty thousand pounds over and above the several sums heretofore given and granted to the King's use and do pray that it may be enacted:

And be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said province in General Assembly met, and by the authority of the same, That the sum of thirty thousand pounds in bills of credit so as aforesaid to be struck by virtue of this act, in the manner hereinafter mentioned, shall be given to the King's use; and to the end the said thirty thousand pounds in bills of credit so as aforesaid struck may be duly and fully sunk and destroyed:

Be it further enacted by the authority aforesaid, That Benjamin Franklin, Robert Charles and John Sergeant, or the survivors or survivor of them, are hereby appointed and fully authorized and empowered, in a due and proper manner, to make application to His Majesty, or such person or persons as shall

be appointed for the payment thereof, for the sum or sums of money which is, are or shall be allotted to this colony as the distributive share and proportion of the sum and sums of money granted or to be granted as aforesaid, and to take and receive the same of and from such person and persons as shall be appointed for the payment thereof and when received to invest the same in some of the public funds or stocks, with full power to buy or contract to buy of any person or persons whatsoever, upon transferring thereof according to the usual manner of transferring the said stock or stocks and to pay such sum or sums of money or consideration for the purchase of all such capital stock or stocks upon transferring thereof, from time to time, and likewise to sell, dispose of and transfer the same whenever thereunto required by the representatives of the people of this province for the time being, by a resolve of the House, to be transmitted to the said Benjamin Franklin, Robert Charles and John Sergeant for that purpose as shall be most for the advantage and interest of this province, where the same shall be and remain in the names of the said Benjamin Franklin, Robert Charles and John Sergeant for the use of the province, subject to the draughts and bills of exchange of the trustees of the general loan office of this province for the time being, which said draughts and bills of exchange the said trustees are hereby authorized and enjoined to make and draw whenever thereunto required by the representatives of the province for the time being, in such manner as shall be most for the advantage and interest of the public, until they shall have drawn for the whole sum and sums so given, granted and allotted to this Colony, and when drawn, to sell and dispose of the said bills or drafts for the best price that may be had for the same in bills of credit of this province.

Provided always, and be it further enacted, That so much of the money granted or to be granted and allotted to this Colony as their distributive share and proportion of the moneys heretofore allotted or to be allotted to this province by His Majesty as shall be sufficient to purchase bills of credit of this province of the value of thirty thousand pounds hereby granted to the King's use, shall be drawn for within six months after a peace between the Crowns of Great Britain and France shall be proclaimed within this province or within two years after the passing of this act, as either of them shall first happen, in order that the said bills of credit shall be delivered into the hands of the committees of assembly, to be sunk and destroyed as is hereinafter directed and enjoined.

And be it further enacted by the authority aforesaid, That the said trustees, towards sinking the bills of credit made current by virtue of this act and towards sinking the several sums of money heretofore granted to His Majesty's use and in abatement of the taxes laid for that purpose shall pay all the residue of the money which shall arise by the sale of such bills or drafts in bills of credit aforesaid into the hands of the committees of assembly, who shall be yearly appointed to settle the public accounts, which bills of credit the said committees are hereby authorized, enjoined and required to burn, sink and destroy.

And be it further enacted by the authority aforesaid, That bills of credit to the value of thirty thousand pounds current money of America, according to an act of Parliament made in the sixth year of the reign of Queen Anne for ascertaining the rates of foreign coins in the plantations in America shall, within one month next after the passing of this act, be prepared and printed on good strong paper, under the care and direction of the trustees of the general loan office aforesaid, the change whereof shall be paid by the said trustees out of the bills of credit hereby made current, which bills shall be made and prepared in manner and form following, and no other, viz.:

This bill shall pass current for — within the province of Pennsylvania, according to an act of assembly made in the first year of the reign of King George the Third, dated the fourteenth day of May, 1761.

And the said bills shall have such like escutcheons as in the margin hereof, with such other devices on the said bills as the said trustees shall think fit, as well to prevent counterfeits as to distinguish their several denominations, each of which said bills shall be of the several and respective denominations following, and no other, viz.:

Three thousand of the same bills of the sum of five pounds. Six thousand of the same bills of the sum of two pounds ten shillings.

And the trustees shall use the best of their care, attention and diligence during the printing of the said bills, that the number and amount thereof, according to their respective denominations aforesaid, be not exceeded nor any clandestine or fraudulent practice be used by the printer, his servants or others concerned therein.

And for the perfecting the said bills, to make them current within this province, according to the true intent and meaning of this act:

Be it further enacted by the authority aforesaid, That all and every of the said bills shall be signed by the following persons, or any three of them: That is to say, Evan Morgan, Thomas Clifford, Thomas Gordon, Joseph Stretch, Peter Reeve, Charles Jones, Samuel Burge, Joseph Morris and Charles Thomson, who are hereby nominated and appointed to be signers of all the bills of credit to be emitted by virtue of this act, in the manner hereinbefore directed, and the several signers shall, before they receive or sign any of the said bills of credit, take an oath or affirmation to the following effect, viz.:

They shall well and truly sign and number all the bills of credit that shall come to their hands for that purpose by the direction of this act, and the same so signed and numbered will deliver, or cause to be delivered, to the trustees of the general loan office of the province of Pennsylvania, pursuant to the direction of this act.

And be it further enacted by the authority aforesaid, That the said trustees, after the said bills are printed, shall deliver them to the said signers to be signed and numbered by parcels, for which the said signers, or some of them, shall give their receipt, of all which bills of credit so delivered by the trustees to be signed true accounts shall be kept by the signers, who, upon the re-delivery of each or any parcel of the said bills of credit by them signed and numbered to the trustees of the general loan office, shall take the receipt of the said trustees, to charge them before any committee of assembly to be appointed for that pur-

pose, and the said signers shall have fifteen shillings apiece for every thousand of the aforesaid bills by them respectively signed and numbered, to be paid by the trustees of the general loan office out of the bills to be made current by virtue of this act.

And be it further enacted by the authority aforesaid, That all the aforesaid bills of credit to be made as this act directs shall be current bills of this province until the fourteenth day of May, in the year 1763, and no longer, and as such shall, during the said term, be received in payment for the discharge of all manner of debts, rents, sum and sums of money whatsoever due, payable or accruing upon any or by reason of any mortgage, bill, bond, specialty, note, book account, promise or other contract or cause whatsoever, as if the same were tendered or paid in the coins mentioned in such bond or other writing, book account, promise, assumption or any other contract or cause whatsoever, and at the rates ascertained in the said act of Parliament, and shall be so received in all payments by all persons whatsoever.

And be it further enacted by the authority aforesaid, That if any person or persons shall presume to counterfeit any of the said bills of credit made current by this act, or shall be aiding and assisting therein or shall enlarge the sum expressed in any of the said bills or shall utter, or cause to be uttered or offered in payment any such bill or bills, knowing the same to be forged or counterfeited, or the sum or value therein altered, with an intent to defraud any other person he, she or they so offending and being thereof legally convicted, shall, for every such offense, incur and suffer the same pains and penalties respectively as forgers, counterfeiters or alterers of bills by former acts of assembly now in force, or any of them, are directed to incur and And the discoverer or prosecutor, by virtue of this present act, shall be entitled to like rewards as by the said former acts, or any of them, are directed in respect to the bills thereby made current.

And be it further enacted by the authority aforesaid, That Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, Joseph Galloway and John Baynton, Esquires, or the major part of them, or of the survivors of them, with the consent and approbation of the governor or commander in chief of this province for the time being, shall order and appoint the disposition of the moneys arising by virtue of this act for and towards raising, paying and clothing five hundred effective men (officers included) to act in conjunction with a body of His Majesty's. forces, until the twenty-fifth day of November next ensuing, in such offensive operations as shall be carried on and prosecuted by His Majesty's commander in chief, and the said Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, Joseph Galloway and John Baynton, or a majority of them, shall, and they are hereby required, as often as there shall be occasion for money for the purposes aforesaid, to draw orders upon the trustees of the general loan office, which orders so drawn and paid shall be produced to the committee of assembly for the time being and by them allowed in discharge of so much of the money granted to the King's use by virtue of this act. said commissioners, for their trouble in discharging the duties of commissioners hereby required, shall have and receive thirty pounds each, and no more, to be paid in the manner hereinbefore directed for defraying the charges arising upon printing and signing the bills of credit made current by virtue of this act.

And whereas sundry certificates and drafts on the provincial treasurer by order of assembly for salaries of officers and services done the public remain yet unpaid through a deficiency of money in his hands to such purposes aforesaid.

Be it therefore enacted by the authority aforesaid, That the trustees of the general loan office shall and they are hereby authorized and empowered, out of the moneys arising by virtue of this act, to pay and discharge all such certificates and drafts on the provincial treasurer and make payment to the masters or owners of servants heretofore enlisted into His Majesty's service, and also to the public house keepers for quartering of soldiers of such sum and sums of money as shall appear to the governor and commissioners aforesaid to be justly due and properly chargeable to this province.

And whereas there yet remaineth in the hands of the said

commissioners a quantity of clothing provided for the use of the troops heretofore raised by this government:

Be it enacted by the authority aforesaid, That the same shall be and are hereby directed to be used and applied towards clothing the additional number of men levied by virtue of this act for His Majesty's service, and in case of any deficiency therein it shall and may be lawful for the said commissioners, with the assent and approbation of the governor, to purchase and provide such further quantity of clothing as may be sufficient to habit and equip the men hereby given and granted as aforesaid, and the expense of the said clothing shall be deducted out of the pay due to each respective soldier clothed in manner aforesaid.

And be it further enacted by the authority aforesaid, That the trustees of the general loan office shall have and receive, for their trouble in receiving and paying the moneys and performing the duties required of them by this act, the sum of ten shillings for every hundred pounds, and no more.

And be it further enacted by the authority aforesaid, That the said Benjamin Franklin, Robert Charles and John Sergeant shall have and receive, for their care and trouble for receiving and paying the moneys and performing the duties required of them by this act, the sum of ten shillings for every hundred pounds and no more.

April 17, 1761.

From the original in the collection of the Historical Society of Pennsylvania.

2.

AMENDMENTS TO THE BILL, ENTITLED "AN ACT FOR GRANTING TO HIS MAJESTY THE SUM OF THIRTY THOUSAND POUNDS AND FOR STRIKING THE SAME IN BILLS OF CREDIT AND FOR PROVIDING A FUND FOR SINKING THE SAID BILLS OF CREDIT.

Page..., line ... Dele the words [John Sergeant], and in sert the words [David Barclay, Junior, and John Barclay].

Page ..., line ... After the word [house], add as follows. [countersigned by the governor and commander in cnief of this province for the time being, and not otherwise].

Page ..., line... Dele the name [John Sergeant], and insert [David Barclay, Junior, and John Barclay].

Page ..., line ... After the word [same], add as follows:

[together with all the gain, profits, interest or emoluments thereon arising or accruing, or that may or shall by any ways or means whatsoever be made thereof].

Page ..., line ... Dele the name [John Sergeant], and insert [David Barclay, Junior, and John Barclay].

Page ..., line... After the word [being], insert [by a resolve of the house of assembly, countersigned by the governor and commander in chief of this province for the time being, and not otherwise].

Page ..., line ... After the word [colony], add [and all the profits, interest or emoluments that shall or may arise thereon as aforesaid].

Page ..., line... Dele the words [so much of the], and instead thereof, insert the words [all and every the sum and sums of].

Page ..., line ... Dele from the word [as], in the 12th line, to the word [use], inclusive, in the penult line.

Page ..., line... After the word [for], add [in manner aforesaid].

Page ..., line ... Dele the words [residue of the].

Page ..., line... After the word [destroy], insert the following clause, viz.: Provided always and be it further enacted by the authority aforesaid, That if the said Benjamin Franklin, Robert Charles, David Barclay, Junior, and John Barclay, or the survivors or survivor of them shall not have received, within the aforesaid term of two years after the passing of this act or within six months after a peace between the Crowns of Great Britain and France shall be proclaimed within this province, the whole money which is or shall be allotted to this colony as the distributive share and proportion of the sum or sums of money granted or to be granted as aforesaid, then, and in such case the residue of the said sum and sums of money, with the interest, profits and emoluments thereof, if any, shall be drawn for in manner aforesaid within the term of six months after the respective receipts of the same by them, or the survivors or survivor of them, and the said trustees, towards sinking the said several sums of money heretofore granted to His Majesty's use and in abatement of the taxes laid for that purpose, shall pay

all the money arising by the sale of such bills or drafts in bills of credit into the hands of the committee of assembly aforesaid, who shall burn, sink and destroy the same, in manner hereinbefore directed.

Page ..., line... After the word [whatsoever], add [rents reserved or debts due or to become due and payable in sterling money to the proprietors of this province only excepted and fore-prized].

Page ..., line... After the word [received], add [except as before excepted].

Page ..., line... Dele the words [John Sergeant], and instead thereof, insert the words [David Barclay, Junior, and John Barclay].

21st April, 1761.

From the original in the collection of the Historical Society of Pennsylvania.

3.

A Message from the Governor to the Assembly.

Gentlemen: It was no less a surprise than concern to me, on perusing your bill for granting to His Majesty the sum of thirty thousand pounds, &c., to find that within a few months after His late Majesty had so expressly declared his disapprobation of several provisions contained in your late acts as to make them the foundation of their repeal, you have again ventured to renew them and insert them in the present bill, as if no such censure or disapprobation had ever passed.

With what views or intention you have done this, I do not take upon me to determine; yet thus much I must have leave to say, that it is a strong evidence of your paying but a very slender regard to the judgment of the King and his ministers; when of all the particulars objected to by them so far as they are applicable to this bill you have not thought fit to conform to their sentiments in respect to any one of them.

You cannot be unacquainted that in the report of the Lords of Trade and Plantations, approved and confirmed by His late Majesty in council, the three following particulars were not only objected to but severely censured as being either encroachments on the prerogative of the Crown or acts of injustice with regard to your proprietors, viz.:

1stly. The blending and connecting together, in the same bill, things which in their own nature are totally separate, by which the Crown is reduced to the alternative either of passing what it disapproves or of rejecting what may be necessary for the public service and which is expressly called a tack.

2ndly. The vesting in yourselves alone the application of the public money, usurping by this means one of the most inviolable prerogatives of the executive power, not countenanced by any example of the British Parliament, who always consider the application of the public money subject to account as one of the most indisputed powers of the Crown.

3rdly. Your contending that the proprietors should be bound to receive their rents in paper currency, notwithstanding the express words of their covenants in sterling.

Having thus recited the purport of His late Majesty's sentiments upon these several points, I shall proceed to show that by the bill sent up for my concurrence, every rule and principle therein established is either directly or virtually contravened and set at naught. But in order to do this the more clearly, it is necessary to state the facts upon the first and second objections fully, by which means the proof of both may be comprised under one and the same article.

Since the commencement of the present war the Parliament of Great Britain have, from time to time, granted large sums of money to be apportioned by the King to the several colonies for reimbursing them a part of the expenses they have been put to by the aids they have granted to His Majesty for prosecuting the war in America. In consequence hereof, a considerable sum of money hath been allotted and is ready to be paid for the use of this province whenever a person shall be properly authorized by both branches of the legislature to receive it, and not otherwise; for, as the money was granted to the whole legislature, the board appointed to pay it have insisted that the person applying to receive it should be empowered by the same authority. The Governor, as one branch of the legislature, in September land.

did offer to join with the assembly in appointing agents to apply for and receive the money so granted, on condition of his retaining a concurrent power with them in the superintending and applying it to the purposes to be appointed by law. assembly, on the contrary, being desirous to deprive the Governor of any share or management of the money granted or to be granted by the Parliament as aforesaid, and to subject the whole to their own power, independent of him (under the pretense, indeed, of applying it to the payment of the public debts, and in abatement of the taxes), did present to him a separate bill for the appointment of agents to receive the same and invest it in the public stocks in their own names, and empowering the trustees of the loan office, when thereto required, by the immediate direction of the House, to draw upon them for the money and apply it to the purposes aforesaid. But as they had therein attempted to deprive the Governor both of his share in the nomination of the agents and of any concurrent power with themselves in the superintendence and due application of the money, and had not limited a time in which the said money should be drawn for and applied as aforesaid, he, therefore, refused his assent to the bill. After which the House, no longer expecting to accomplish their purposes by a separate bill, have now seized the occasion of His Majesty's demanding an aid from the province to blend and connect these unconstitutional claims with the supply bill, which they will not suffer to be altered or amended, in order to oblige the Governor either to give up so essential a branch of the prerogative or to subject himself to the King's displeasure for refusing the supplies offered him.

If these facts be rightly stated, Gentlemen, as I conceive they are, then, the clause in your bill relating to the management and disposition of the money granted by Parliament (which is the same in effect I refused by assent to before), and its being inseperably joined to the clauses for granting an aid to His Majesty will, in my opinion, be a convincing proof that the present bill is justly liable to the censure passed upon the former acts of being both a tack to the supply bill (by which the King's representative is denied the free use of his negative in the legislature), and as tending to usurp one of the most inviolable prerogatives of

the executive power in the application of the public money subject to account, which, being once given up, would be to change, in a great degree, the constitution and sap the foundations of government.

With respect to the 3rd point. The Lords of Trade, in the report (of which you have a copy), have reasoned so fully and so much better than I am capable of, on the subject of your contending that the proprietors should be bound to receive their quit-rents in paper currency, notwithstanding their express covenants in sterling; and have also expressed His Majesty's opinion in respect to reservations of that kind in colonies immediately under his own government, that I shall not venture to say anything further upon that head, but only put you in mind that your present bill contains a clause of the same nature with that objected to by His Majesty in council, and that you have not offered any compensation to the proprietors for the loss they are to sustain thereby, though former assemblies were both sensible of the justice of such compensation and made it accordingly.

I was in great hopes, Gentlemen, that on your being convened to consider of His Majesty's requisition, you would not have fallen short of the other colonies in a zealous and ready compliance with it, considering the importance of the service for which your aid is required. And I flatter myself that this might have been easily done without laying any new burdens upon the people or running the risk of our falling into fresh contentions about the means of doing it, as has been too often the case in respect to bills of this nature, but as those means do not seem to have occurred to you, I hope to be excused for pointing them out to you.

You are sensible, Gentlemen, that there is a sum of money lying in the hands of your agents in England (part of the parliamentary grant), more than sufficient to answer all the purposes of the present bill, even though you had doubled the number of men thereby granted to His Majesty; and since the making use of this money could occasion no controversy between you and me, why might not a bill have been prepared empowering the trustees forthwith to draw for it and pay the produce, or such

part as should be necessary, into the hands of the committees, to be applied to the present service? Or to what end should you think of overwhelming the province with floods of paper money, at a time when that currency is depreciating so fast as must necessarily prove injurious not only to the English merchants trading hither, but to every man in the province who is possessed of property in a personal estate, and, more particularly, to widows and orphans? Or why would you choose to propose creating a fund for sinking this money upon terms which you well know I neither ought or can accept of without breaking in upon the just and established rights of government? When all these difficulties and inconveniences might be so easily avoided by making use of that fund which is absolutely in our own power.

Perhaps you will say, Gentlemen, that the money lying in your agents' hands is by law appropriated to the payment of the public debts and, therefore, ought not to be diverted to any other service, but pray, gentlemen, has one shilling of it as yet been applied to that purpose? Or if that was an objection to our using it for any other service, does it not equally lie against the making use of the money heretofore allotted and not received as a fund for sinking the sum of thirty thousand pounds in bills of credit voted to His Majesty as you have proposed in the present bill?

The cases, then, are exactly similar, except that you choose to give money of which we are not possessed rather than that of which we are. But further, to obviate that objection, you may please to remember, gentlemen, that there is an express provision in the act empowering the Governor and assembly to dispose of the money in your agents' hands to any purposes they think fit, and I do not think it can be better disposed of than by granting such a part of it to His Majesty as may be sufficient for the present service and applying the remainder (if any) to the payment of the public debts and in abatement of the taxes, for I can by no means think it reputable to or becoming any government to be trafficking with the people's money while they at the same time are paying taxes for it. Dealing in the stocks has always been deemed but as a more reputable sort of gambling, by which loss as well as gain may accrue to the adventurers. Individuals may do as they please with their own money, but the giving ease to the people by lightening the burden of the taxes ought not to be delayed under the precarious expectations of increasing the public stock.

Upon the whole, Gentlemen, a regard to the just rights of government which I shall on all occasions think myself indispensably obliged to support and maintain, and the great deference I bear to the judgment and opinion of our late gracious sovereign and his ministers, who have actually repealed some of the acts of this province for the reasons I have above set forth, render it impossible for me to give my assent to the bill now before me; at the same time, I cannot but express the highest concern lest His Majesty's service should be obstructed if any difference in opinion between us on the present occasion should deprive him of the aids he demands from this province, I must, therefore, recommend it to you, Gentlemen, in the warmest manner to reconsider the bill, and if you will not accede to the amendments I have proposed thereto, to fall on some other means of complying with His Majesty's most reasonable requisition by forming a new bill free from the objections I have herein pointed out to you.

JAMES HAMILTON.

22nd April, 1761.

1763]

From the original in the collection of the Historical Society of Pennsylvania.

4.

A Message to the Governor from the Assembly.

May it please your Honor:

We have taken into our consideration your message which attended the bill for granting supplies to the Crown, in pursuance of His Majesty's gracious requisition, and cannot, consistent with the right of assembly and that duty we owe the people we represent, admit of the amendments proposed thereon, nor can we think of framing a new bill for this purpose, as we have already prepared and presented to your Honor a bill similar in its essentials to one which hath received the approbation of His Majesty, and, as we apprehend, reasonable and just in all its parts; be-



sides, we know of no other method consistent with our rights but may be liable to objections of equal weight with those made by your Honor to the said bill.

The House being much fatigued with the great length of time spent in the public business at this inconvenient season of the year, are obliged to content themselves for the present with this general answer, but as your two last messages contain matters which we think it our indispensable duty to answer in a more particular manner, we have appointed a committee to report more fully thereon to the House at their next meeting.

Signed by order of the House,

ISAAC NORRIS, Speaker.

23rd April, 1761.

From the original in the collection of the Historical Society of Pennsylvania.

5.

By the Honorable James Hamilton, Esquire, Lieutenant-Governor and Commander in Chief of the Province of Pennsylvania and Counties of Newcastle, Kent and Sussex upon Delaware:

To all whom it may concern, Greeting:

On the thirtieth day of April, in the year of our Lord one thousand seven hundred and sixty-one, came Richard Peters, Esquire, Secretary and Clerk of the Governors' Council of the said province, and made oath on the Holy Evangelists as follows: That is to say, that on the seventeenth day of this instant a bill [entitled "An act for granting to His Majesty the sum of thirty thousand pounds and for striking the same in bills of credit, for providing a fund for sinking the said bills of credit"] was presented by the House of Representatives of the said province, then sitting, unto the said Governor Hamilton for his concurrence, a true copy whereof is hereto annexed, marked No. 1. And saith that there having been made thereto certain amendments by the said Governor Hamilton, this deponent, the twenty-first day of this instant came and delivered the same. with the said bill, by His Honor's orders, to the said House of Representatives, then sitting, a true copy of which amendments,

marked No. 2, is hereunto annexed. That on the same day the House of Representatives, as the said Governor Hamilton informed this deponent, returned the said bill to him, with a message, by two of the members, that they, the said House, adhered to the bill and desired the Governor would be pleased to pass it as it stood without amendments. And that on the twentysecond day of this instant this deponent, by order of the said Governor Hamilton, carried and delivered the said bill, with a message in writing from him, unto the said House of Assembly, then sitting, a true copy of which message, marked No. 3, is hereto also annexed. And that on the next day, namely, the twenty-third day of this instant, the answer of the said House of Representatives to the said message was delivered to the said Governor, as he informed this deponent, by two of the members, a true copy whereof is hereto also annexed and marked No. 4. The said members at the same time acquainting the Governor that the House inclined to adjourn to the seventh day of September next, to which he made no objection, since they were determined not to do the business they were summoned for, as the said Governor told this deponent. And this deponent saith that the said House of Assembly did accordingly then separate, having first adjourned to the said seventh day of September next.

### RICHARD PETERS.

And the said Governor Hamilton do further certify that I received the said bill, sent the said amendments and written message and received the said answer from the said assembly thereto as above set forth.

In Testimony whereof I, the said Governor Hamilton, hath set my hand and caused the Great Seal of the said Province to be hereunto affixed at Philadelphia, the said thirtieth day of April, in the First Year of the Reign of our Sovereign Lord George the Third, by the Grace of God of Great Britain, France and Ireland, King, Defender of the Faith and so forth and in the Year of our Lord 1761.

JAMES HAMILTON.

30th April, 1761.

1763

From the original in the collection of the Historical Society of Pennsylvan



6.

### CASE.

King Charles the Second, by his letters patent, dated the fourth day of March, Anno Domini 1681, granted the province of Pennsylvania to William Penn, his heirs and assigns, with divers privileges and the powers of legislation and government, in which said patent, among other things, it is contained as follows, to wit: "And we do likewise give and grant unto the said William Penn, and to his heirs and their deputies and lieutenants, full power and authority to appoint and establish any judges and justices, magistrates and other officers whatsoever for what causes soever, for the probates of wills and for the granting of administrations within the province aforesaid; and with what power soever and in such form as to the said William Penn, or his heirs, shall seem most convenient; also to remit, release, pardon and abolish (whether before judgment or afterward) all crimes and offenses whatsoever committed within the said country against the said laws (treason and willful and malicious murder only excepted, and in those cases to grant reprieves until our pleasure may be known there, and to do all and every other thing and things which unto the complete establishment of justice unto courts and tribunals, forms of judicature and manner of proceedings do belong, although in those presents express mention be not made thereof, and by judges by them delegated to award process, hold pleas and to determine all the said courts and tribunals all actions, suits and causes whatsoever, as well criminal as civil, personal, real and mixed, which laws, as aforesaid, to be published, our pleasure is and so we enjoin, require and command shall be most absolute and available in law and that all the liege people and subjects of us, our heirs and successors do observe and keep the same inviolable in those parts so far as they concern them, under the pain herein expressed, or to be expressed; provided nevertheless that the same laws be consonant to reason and not repugnant or contrary, but (as near as conveniently may be) agreeable to the laws and statutes and rights of this our Kingdom of England, and saving and reserving to us, our heirs and successors the receiving, hearing and determining of the appeal and appeals of all or any person or persons of, in or belonging to territories aforesaid or touching any judgment be there made or given.

By an act of general assembly of the said province passed in the eighth year of King George the First, entitled an act for establishing courts of judicature in this province, it is, among other things, provided as follows, viz.: And be it further enacted by the authority aforesaid, that a competent number of persons shall be commissionated by the Governor or his lieutenant, under the broad seal of this province, who shall hold and keep a court of record in every county, which shall be styled and called The County Court of Common Pleas, and shall be holden four times in every year, at the places where the general quarter sessions shall be required to be holden, viz., at Philadelphia, for the county and city of Philadelphia, on the day called the first Wednesday after the day appointed for the quarter sessions to begin on there, in the months called March, June, September and December; at Bristol, for the county of Bucks, on the eleventh day following, inclusive, and at Chester, for the county of Chester, on the day called the last Tuesday in the months called May, August, November and February. Which said justices, or any three of them (according to the tenor and decision) of their commissions, shall hold pleas of assizes, scire facias, replevins and hear and determine all and all manner of pleas, actions, suits and causes, civil, personal, real and mixed, according to the laws and constitutions of this province. it further enacted by the authority aforesaid, That every of the said justices shall and are hereby empowered to grant, under the seal of the respective counties, replevins, writs of partition, writs of view and all other writs and process upon the said pleas and actions cognizable in the said respective courts as the occasion may require.

From the time of passing this act the lieutenant-governor of the province constantly issued commissions to a number of gentlemen, constituting them justices of the county court of common pleas during pleasure, until the thirty-third year of King George the Second, when another act was passed in the said province, entitled A supplement to the act, entitled an act for



establishing courts of judicature in this province, a copy of which is herewith laid before you.

Soon after the passing this last act, Mr. Denny, the then lieutenant-governor, issued patents under the Great Seal to five persons, constituting them judges of the County Court of Common Pleas for the county of Philadelphia, during good behavior, in the following form, viz.: George the Second, by the Grace of God of Great Britain, France and Ireland, King, Defendant of the Faith, &c. To all to whom these presents shall come, Greeting: Know ye that we have constituted our chosen and faithful A. B., gentleman, one of the judges of the county court of common pleas for the county of Philadelphia, to hold the same for so long a time as he shall well behave himself therein. In Testimony whereof, &c.

The said judges, without any other commission, held the court styled the Orphans' Court and exercised all the powers and jurisdictions of the Orphans' Court, under the second section of the last-mentioned act, until the twenty-seventh day of August passed, when the said act was repealed by His late Majesty in Council, by which such parts of the first act for establishing courts of judicature as were repealed by the said supplement were again revived.

After the said repeal and since the demise of His late Majesty, the lieutenant-governor of the province of Pennsylvania issued writs of supersedeas, under the Great Seal, to the said five judges, constituted as aforesaid, by patent and made out a new commission to other gentlemen, constituting them justices of the county court of common pleas under the first-mentioned act. But the said five judges refused to resign their seats or pay any regard to the writs of supersedeas, contending that their patents have no reference to the supplement, nor are affected by the repeal of the act, but are good at common law, and being during good behavior give them an estate for life and a freehold in their offices, and that their patents cannot be determined or vacated but for misbehavior in their offices.

The Governor, on the contrary, apprehends that patents were granted in virtue of the said supplementary act, and though no express notice is taken of that act or reference to it on the face of the patents themselves, yet it is conceived they are inseperably connected with the act and, consequently, void by the repeal of it. By the act for establishing courts of judicature, &c., the Governor was to appoint a competent number of gentlemen to be justices of the court court and was not limited to the number, but by the supplement he is limited to the number five only. Further, by the first law, persons so appointed were styled justices; by the latter, they are called judges, in which respects the patents pursue the supplement and correspond with it. Moreover, the five patent judges have, without any other commission or authority than is given them by the supplement exercised the jurisdiction of the Orphans' Court (which, by former laws, was exercised by the justices of the quarter sessions), which they could not legally do unless they considered their patents as granted under the act and not at common law.

It is also insisted on the part of the Governor that at common law all judicial offices, though held quamdiu se bene gesserint, determined by the demise of the King who granted them. And if it should even be admitted that the patents of the said five judges were not vacated by the repeal of the said supplementary act and that by the statute of 6 Anne, Chap. 7, Section 8th, they did not become void until the end of six months after the demise of His late Majesty, yet it is contended by the express terms of that statute the Governor had a right to remove them within that time and their power as judges ceases on his issuing writs of supcrsedess for their removal.

Under the circumstances of this case, therefore, your opinion is desired:

First. Whether the patents granted by Governor Denny to the five judges after passing the supplementary act were vacated by the repealing of that act.

Secondly. If such patents should be considered as independent of the act, whether the Governor was not so far restrained by the ancient forms of the commissions used in the said province since the passing of the act for establishing the courts of judicature in the 8th of George the First, which were ever granted during pleasure that he could not grant the office of a

judge or justice of the county court of common pleas during good behavior.

Thirdly. Whether the said patents, granted in the name of the late King to the said judges quamdiu se bene gesserint did not cease and determine by the demise of His said Majesty; or, if they did not, whether, under the statute of the 6th of Anne, Chap. 7th, the Governor has not legally removed the said judges and put an end to their power by issuing writs of supersedeas for that purpose.

# Opinion.

To the first query, I am of opinion that these patents became ipso facto void upon the repeal of the supplementary act, notwithstanding the pretense set up to establish these commissions upon the footing of the common law. They were made out immediately upon the passing of the act. They were made as the act directs, quamdiu se bene gesserint, and were so made where it was illegal to have granted commissions in any other form, for so long as the act continued unrepealed, the Governor's power of constituting judges was suspended and restrained. They were five in number only, and have exercised jurisdiction in the Orphans' Court. All these considerations prove the judges in question to have been assembly judges and made under the direction of that act.

To the second query. I am of opinion that if, before the supplementary act, the governor had constituted judges to hold during good behavior, the patents would have been good though the Governor, by such a grant, would have been guilty of a breach of his instructions.

To the third query. I am at a loss to know how these commissions came to be made out in the King's name. For Mr. Penn, by the original charter, was empowered to make all the judges and, therefore, I am not sure that these commissions are not void in this respect, as being granted by the King, unless the judges' commissions have usually passed in this form. If, however, these judges are to be deemed the King's judges (which I own I can't well comprehend), I am not satisfied that their commissions would have determined, upon the demise of the Crown.

The grounds upon which that point was determined in the case of the English judges are so peculiarly applicable to them only, that it would not be easy to transfer the same reasoning to the case of any judges in the plantations, so that if the question was reduced to that point I should have great doubt upon it.

C. PRATT.

May 13, 1761.

I think it proper to add that the demise of the Crown can have no effect upon the commissions.

First. Because, although in point of form, the commissions are granted by the King, I am of opinion the judges so made are not the King's judges and, therefore, their patents cannot depend upon the King's life.

Second. Because, if they are considered as assembly judges, they hold under the acts of assembly, which constitutes their tenure; whereas the English judges, made pursuant to the act of settlement, hold still under the King's commission, the construction whereof must be governed by the rules of the common law.

C. PRATT.

June 10, 1761.

From the original in the collection of the Historical Society of Pennsylvania.

### SECTION IV.

1.

AN ACT FOR STRIKING THE SUM OF SEVENTY THOUSAND POUNDS IN BILLS OF CREDIT AND GIVING THE SAME TO HIS MAJESTY, AND FOR PROVIDING A FUND FOR SINKING THE BILLS OF CREDIT TO BE EMITTED BY VIRTUE OF THIS ACT.

Whereas it hath been represented to this House by the Secretary of State's letter, dated the twelfth day of December, one thousand seven hundred and sixty-one, that, as the King "has nothing so much at heart as to secure and improve the great and important advantages gained since the commencement of this war in North America, and having seen his good dispositions to restore the public tranquillity, entirely frustrated by the insincerity and chicane of the Court of Versailles in the late negotiation, and as nothing can so effectually contribute to the great

and essential object of reducing the enemy to the necessity of accepting a peace on terms of glory and advantage to His Majesty's Crown and beneficial in particular to his subjects in America, as the King's being enabled to employ as immediately as may be, such parts of the regular forces in North America as may be adequate to some great and important enterprise against the enemy;" and, therefore, "in order the better to provide for the full and entire security of His Majesty's Dominions in North America, and particularly of the possession of His Majesty's conquests there during the absence of such part of the regular forces," requests the aids of his loyal and dutiful subjects within this province, we, the representatives of the freemen of the province of Pennsylvania, being desirous to assist His Majesty towards these salutary ends, as far as lies in our power, have cheerfully and voluntarily given and granted, and do hereby give and grant to His Majesty for the purpose hereinafter mentioned, the sum of seventy thousand pounds, over and above the several sums of money heretofore given and granted by the several acts of assembly of this province for the uses of the Crown; and do pray that it may be enacted:

And be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That bills of credit to the value of seventy thousand pounds, current money of America, according to an act of Parliament made in the sixth year of the reign of the late Queen Anne, for ascertaining the rates of foreign coins in the plantations of America, shall be prepared and printed, within two months next after the passing of this act, on good, strong paper, under the care and direction of the trustees of the General Loan Office, the charges whereof to be paid by the said trustees out of the first moneys to arise by virtue of this act; which bills shall be made and prepared in the manner and form following, and no other, viz.:

This bill shall pass current for — within the pro-

vince of Pennsylvania, according to a law of the said province made in the second year of the reign of King George the Third, dated the tenth day of April, one thousand seven hundred and sixty-two.

And the said bills shall have the like escutcheons as in the margin hereof, with other devices on the said bills as the said trustees shall think fit, as well to prevent counterfeits as to distinguish their several denominations; each of which bills shall be of the several and respective denominations following, and no other, viz.:



Five thousand of the same bills, the sum of five pounds in each of them.

Five thousand of the same bills, the sum of three pounds in each of them.

Five thousand of the same bills, the sum of forty shillings in each of them.

Ten thousand of the same bills, the sum of twenty shillings in each of them.

Six thousand of the same bills, the sum of ten shillings in each of them.

Ten thousand of the same bills, the sum of five shillings in each of them.

Ten thousand of the same bills, the sum of two shillings and six pence in each of them.

Ten thousand of the same bills, the sum of two shillings in each of them.

Ten thousand of the same bills, the sum of eighteen pence in each of them.

Ten thousand of the same bills, the sum of one shilling in each of them.

Ten thousand of the same bills, the sum of nine pence in each of them.

Ten thousand of the same bills, the sum of six pence in each of them.

Eleven thousand two hundred and fifty of the same bills, the sum of four pence in each of them.

Fifteen thousand of the same bills, the sum of three pence in each of them.

And the trustees shall use the best of their care, attention and diligence during the printing of the said bills that the number and amount thereof according to the respective denominations aforesaid be not exceeded, nor any clandestine or fraudulent practice used by the printer, his servants or others concerned therein.

And for perfecting the said bills to make them current within this province according to the true intent and meaning of this act, Be it further enacted by the authority aforesaid, That all and every of the said bills of the value of one shilling and upwards, shall be signed by three of the persons following, and all under the value of one shilling shall be signed by one of them and no more: That is to say, Henry Harrison, Joseph Morris, Evan Morgan, Joseph Stretch, Charles Jones, Charles Thomson, Joseph Richardson, Jonathan Evans, Luke Morris, Thomas Say, Thomas Clifford, Joseph Marriot, Samuel Burge, Doctor Charles Moore, William Morris, Junior, Charles Pettit, Daniel Rundle, William Hopkins, John Ord, Isaac Greenleafe, Joseph Saunders, Peter Chevalier, Junior, James Benezet, James Humphreys and Joseph Wharton, Junior, who are hereby nominated and appointed to be signers of the said bills, and shall, before they receive or sign any of the said bills, take an oath or affirmation to the following effect, viz.:

That they shall well and truly sign and number all the bills of credit which shall come to their hands for that purpose by the direction of this act, and the same so signed and numbered will deliver or cause to be delivered unto the trustees of the general loan office of the province of Pennsylvania, pursuant to the directions of this act.

And for avoiding the danger of embezzlement or misapplication of any of the said bills of credit, Be it further enacted by the authority aforesaid, That the said trustees, after the said bills are printed, shall deliver them to the said signers, to be signed and numbered by parcels, for which the said signers, or some of them, shall give their receipt, of all which bills of credit so delivered by the trustees to be signed, true accounts

shall be kept by the signers, who, upon their re-delivery of each or any parcel of the said bills of credit by them signed and numbered, to the trustees of the general loan office, shall take the receipt of of [sic] the said trustees, to charge them before any committee of assembly to be appointed for that purpose: And the said signers shall have fifteen shillings apiece for every thousand of the aforesaid bills by them respectively signed and numbered, to be paid by the trustees of the general loan office.

And be it further enacted by the authority aforesaid, That the aforesaid bills of credit to be made as this act directs shall be current bills of this province until the first day of October, one thousand seven hundred and seventy-six, and as such shall, during the said term, be received in payment for the discharge of all manner of debts, rents, sum and sums of money whatsoever, due, payable or accruing upon any, or by reason of any, mortgage, bill, bond, specialty, note, book account, promise or other contract or cause whatsoever, as if the same were tendered or paid in the coins mentioned in such bond or other writing, book account, promise, assumption or any other contract or cause whatsoever and at the rates ascertained in the said act of Parliament, and shall be so received in all payments by all persons whatsoever.

And be it further enacted by the authority aforesaid, That if any person or persons shall presume to counterfeit any of the said bills of credit made current by this act, or shall be aiding or assisting therein, or shall enlarge the sum expressed in any of the said bills, or shall utter or cause to be uttered or offered in payment any such bill or bills, knowing the same to be forged or counterfeited, or the sum or value therein altered, with an intent to defraud any other person, he, she or they so offending, and being thereof legally convicted shall, for every such offense, incur and suffer the same pains and penalties respectively as forgers, counterfeiters or alterers of bills by former acts of assembly now in force, or any of them, are directed to incur and suffer, and the discoverer or prosecutor, by virtue of this present act shall be entitled to like rewards as by the said former acts, or any of them, are directed in respect to the bills thereby made current.

And to the end the said seventy thousand pounds so as aforesaid struck in bills of credit by virtue of this act may be fully sunk and destroyed:

Be it enacted by the authority aforesaid, That the act of general assembly of this province passed in the thirtieth year of his late Majesty's reign, entitled "An act for striking the sum of thirty thousand pounds in bills of credit and giving the same to the King's use and for providing a fund to sink the bills so to be emitted by laying an excise on wine, rum, brandy and other spirits," so far as it relates to the laying an excise upon wine, rum, brandy and other spirits, and all and every clause and clauses therein contained for laying, levying and collecting the same, and all other the fines, forfeitures, penalties, sum and sums of money in and by the said act imposed, laid and particularly set forth and declared, and the annual payments to be paid by the treasurer into the hands of the committees of assembly, shall be and continue in force and be effectual to all intents and purposes for raising, levying, collecting, securing, paying and accounting for the several sum and sums of money hereby imposed, granted, charged or continued and for recovering the forfeitures and penalties and all other matters and things thereunto belonging, for and during the term of ten years from and after the first day of October, which will be in the year of our Lord one thousand seven hundred and sixty-six, and for so long after as until the end of the then next session of assembly, anything in the said act or any other act of general assembly of this province to the contrary notwithstanding.

Provided nevertheless, and be it further enacted by the authority aforesaid, That if the excise to be levied by virtue of this act and the act hereinbefore recited shall not be sufficient, during the term for which it was granted by the said first-mentioned act, and the continuance thereof by this act, to sink the sum of thirty thousand pounds by the said hereinbefore mentioned act struck and issued and defray all incident charges thereon and likewise the further sum of thirty thousand pounds, part of the bills of credit to be struck and issued by virtue of this act, then and in such case the aforesaid act passed in the thirtieth year of the reign of his late Majesty King George the

Second, entitled "An act for striking the sum of thirty thousand pounds in bills of credit, and giving the same to the King's use, and for providing a fund to sink the bills so to be emitted, by laying an excise upon wine, rum, brandy and other spirits," and this present act shall be and continue in full force and virtue until the said first-mentioned sum of thirty thousand pounds, and likewise the further sum of thirty thousand pounds, part of the bills of credit to be struck and issued by virtue of this act, shall be completely sunk and destroyed. And if the said excise shall, within the term of ten years, produce more than the sum of thirty thousand pounds, the incident charges aforesaid being defrayed, the overplus shall be disposed of by act of assembly.

And whereas in and by an act of general assembly of this province passed in the first year of his present Majesty's reign, entitled "An act for appointing certain persons hereinafter named to apply for and receive the distributive shares and proportions which are or shall be allotted to this province out of the sum and sums of money granted or to be granted by Parliament to His Majesty's colonies in America," it was enacted and provided that certain sums of money in the said act mentioned should be paid and discharged out of the bills of exchange to be drawn by the trustees of the General Loan Office by virtue of the said act on John Sergeant, George Aufrere, David Barclay, Junior, and John Barclay, merchants in London, and that the said trustees should, towards sinking the sum and sums of money theretofore granted to His Majesty's use and in abatement of the taxes directed to be laid for that purpose, pay and deliver all the remaining part of the money that should arise by the sale of such drafts or bills of exchange as they, the said trustees, were directed to draw by virtue of the said act within one month after making the said payments, into the hands of the committee of assembly, who should be yearly appointed to settle the public accounts in bills of credit of this province, which said bills of credit the said committees were thereby authorized, enjoined and required to burn, sink and destroy, but forasmuch as it hath been represented to this house that Benjamin Franklin, Esquire, Agent for this province at the Court of Great Britain, in pursuance of an act of general assembly of this

province passed in the thirty-third year of his late Majesty's reign, entitled "An act for appointing an agent to apply for and receive the distributive share and proportion which shall be assigned to this province, of the sum of money granted by Parliament to His Majesty's Colonies in America," hath received the sum of twenty-six thousand, nine hundred and two pounds, eight shillings, being the allotment or proportion made by the Lords of the Treasury of the parliamentary grant to this province for the year one thousand seven hundred and fifty-eight, and hath, with the said money, made large purchases in the public funds, or some of them, which, from the present low price of the said funds or stocks, may render it difficult or impracticable for the said Benjamin Franklin to answer and pay the several bills of exchange drawn upon him, the said Benjamin Franklin, by the trustees of the general loan office in pursuance of an order of the last assembly of the twenty-sixth day of September, one thousand seven hundred and sixty-one, and the said bills so drawn by the said trustees, or some of them, may be protested for non-payment thereof:

For remedying whereof and providing a sufficient sum of money in case of a protest or loss upon any part of the said bills of exchange:

Be it enacted by the authority aforesaid, That John Sargent, George Aufrere, David Barclay, Junior, and John Barclay, and the survivors or survivor of them, shall have power and they are hereby authorized and required, when they have received any sum or sums of money by virtue of the act hereinbefore mentioned, to invest the same in some of the public funds or stocks for the use of this province, with full power to buy or contract to buy of any person or persons whatsoever, upon transferring thereof according to the usual manner of transferring the said stock or stocks, and to pay such sum or sums of money or consideration for the purchase of all such capital stock or stocks upon transferring thereof, and likewise to sell, dispose of and transfer the same for the discharge of any bills of exchange which may be drawn upon them, the said John Sargent, George Aufrere, David Barclay, Junior, and John Barclay, by the trustees of the general loan office in pursuance of this act: All which said capital

stock or stocks so as aforesaid purchased, together with the interest, issues and profits thereof, shall be and remain in the names of them, the said John Sargent, George Aufrere, David Barclay, Junior, and John Barclay, but for the use of this province, subject nevertheless to the drafts and bills of exchange of the trustees of the general loan office, to be drawn by them, the said trustees of the general loan office, or any three of them, as in and by the act hereinbefore mentioned is provided and enacted, anything in the said recited act or any other act or law of this province to the contrary notwithstanding.

Provided nevertheless, and it is hereby further enacted by the authority aforesaid, That the trustees of the general loan office shall and they are hereby required and enjoined, within six months after a peace between the Crowns of Great Britain and France shall be proclaimed within this province, or within four years after the passing of this act, as either of them shall or may first happen, to draw for all and every the sum and sums of money purchased or lodged in the public funds as aforesaid, with the interest, issues and profits thereof, and with part of the same shall purchase bills of credit of this province of the value of forty thousand pounds, part of the money hereby granted to the King's use, which bills of credit, when so as aforesaid purchased, shall be delivered by the said trustees into the hands of the committees of assembly, and by the said committees shall be burnt, sunk and destroyed, and the overplus shall be applied by the said trustees towards sinking, burning and destroying the several sums of money heretofore granted to His Majesty, and in abatement of the taxes directed to be laid for that purpose, as in and by the act hereinbefore mentioned is provided and enacted.

And be it further enacted by the authority aforesaid, That Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, Joseph Galloway and John Baynton, Esquires, or the major part of them, or the survivors of them, with the consent and approbation of the governor or commander in chief of this province for the time being, shall order and appoint the disposition of the moneys arising by virtue of this act for and towards raising, paying and clothing one thousand effective men (offi-



cers included), to act in conjunction with a body of His Majesty's forces, until the twenty-fifth day of November next ensuing, and for other purposes mentioned and contained in the said last recited act of assembly, and to support such of the late inhabitants of Nova Scotia as are real objects of charity.

And the said Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, Joseph Galloway and John Baynton, or a majority of them, shall and they are hereby required to draw orders upon the trustees of the general loan office for the purposes aforesaid, which orders so drawn and paid shall be produced to the committee of assembly for the time being, and by them allowed in discharge of so much of the money granted to the King's use by virtue of this act; and the said commissioners, for their trouble in discharging the duties of commissioners hereby required, shall have and receive seventy pounds each, and no more, to be paid in the manner hereinbefore directed for defraying the charges arising upon printing and signing the bills of credit made current by virtue of this act.

And whereas sundry certificates by order of assembly for salaries of officers and services done the public remain yet unpaid through a deficiency of money to such purposes appointed:

Be it therefore enacted by the authority aforesaid, That the trustees of the general loan office shall and they are hereby authorized and empowered, out of the moneys arising by virtue of this act, to pay and discharge all such certificates so as aforesaid drawn for salaries of officers and services done the public, or that shall be drawn to defray the incidental charges and expenses of government for the current year; and to make payment to the owners and possessors of all such provincial notes as were heretofore issued for His Majesty's use, which yet remain unpaid; and likewise such other charges as shall or may accrue upon the treaty or treaties with the Indian Nations agreed to be defrayed by a resolve of this House of the tenth instant; and likewise to make payment for two hundred copies of the late edition of our laws, according to a resolve of the seventeenth of February last, when the said number of copies shall be delivered, to be disposed of in such manner as the assembly shall hereafter direct.

And be it further enacted by the authority aforesaid, That the trustees of the general loan office shall have and receive, for their trouble in receiving and paying the moneys and performing the duties required of them by this act, twenty shillings for every hundred pounds, and no more.

From the original in the collection of the Historical Society of Pennsylvania.

### SECTION V.

1.

Amendments to the Bill, entitled "An act for forming and regulating the Militia of the Province of Pennsylvania."

¹ Pages 8 and 9. Dele from the word [shall], exclusive, in the second line of page 8, to the word [Him], inclusive, in the 10th line of page 9, and instead thereof insert as follows, viz., within ten days afterwards return a duplicate of the said lists, under his hand, as the Governor or commander in chief of this province in order the better to enable him to divide the said companies into regiments and to appoint and commissionate a colonel, lieutenant-colonel and major to each regiment and a captain, lieutenant and ensign to each company, which officers so appointed].

Page 10. Dele from the word [and], inclusive, in the eighth line, to the word [commissions], inclusive, in line 11.

Same page, line 13. Dele the words [chosen, certified or].

Same page and line. After the word [as], add the words [a colonel, unless he be possessed of a real estate in this province worth £500, or as lieutenant-colonel unless he be possessed of a real estate worth £400, or as a major unless he be possessed of a real estate worth £300, or double the value in personal estates or as].

Page 12, line 3rd. Dele the words [chosen, certified], and insert the word [appointed].

Same page, line 4. Dele from the word [aforesaid], in the fourth line to the word [but], in the sixth line.

Page 14, line 1. After the word [county], add the words [or city].

<sup>&</sup>lt;sup>1</sup>The pages cited in this paper refer to the copy of the bill submitted to the Governor at the time; their retention here is, however, unavoidable.

Page 21, last and penult lines. Dele the words [hereinafter directed to be chosen and appointed].

Page 22. Dele the word [and], inclusive, in the tenth line of the 22nd page, to the word [otherwise], inclusive, in the fifth line of page 25.

Page 26. Dele from the word [the], in the 1st line of page 26th, to the word [governor], in the 9th line of the same page.

Page 26, line 11. After the word [being], insert the words [in order that he may appoint and commissionate a captain, lieutenant and cornet to such troop who, before they enter upon the execution of their respective offices].

Page 29. Dele from the word [and], inclusive, in the antepenult line of the 29th page, to the word [directed], inclusive, in the 4th line of page 33.

Page 34. Dele from the word [To], in the 11th line of page 34, to the word which is in the 5th line of page 35, and instead thereof insert [the Governor and commander in chief of this province for the time being who shall appoint and commissionate a captain, first and second lieutenant for each company].

Page 35, lines 5 and 6. Dele the words [chosen, if approved of, and].

Page 39, line 13. Dele the word [one], and insert the word [three].

Page 40, line 6. Before the word [fifty], insert the words [one hundred and].

Same page, line 13. Dele the word [ten], and insert the word [fifty].

Page 41, line 10. Dele the word [ten], and insert the word [fifty].

Page 43. Dele from the word [officer], in the first line, to the word [shall], in the 9th line, and instead thereof insert the word [or].

Pages 43, 44. Dele from the word [shall], inclusive, in the last line of page 43 to the word [clergy], inclusive, in the first line of page 44, and instead thereof insert as follows, viz.: [by a court-martial shall suffer death or such other punishment as such court by their sentence or decree shall think proper to inflict and pronounce, and be it further enacted by the authority

aforesaid, That when and so often as it may be necessary, the Governor and Commander in Chief of this province for the time being shall appoint and commissionate, under the Great Seal of this province sixteen commissioned officers in each regiment, with authority and power to them, or any thirteen of them, to hold Courts-Martial, of whom a field officer shall always be one and president of the said court, and such Courts-Martial shall, and are hereby empowered to administer an oath to any witness in order to the examination or trial of any of the offenses which by this act are made cognizable in such courts and shall come, before them, provided always that in all trials by a court-martial by virtue of this act, every officer present at such trial, before any proceedings be made therein, shall take an oath upon the Holy Evangelists, before one justice of the peace in the county where such court is held, who are hereby authorized to administer the same in the following words: That is to say,-I, A. B., do swear that I will duly administer justice according to evidence and to the directions of an act, entitled "An act for forming and regulating the militia of the province of Pennsylvania," without partiality, favor or affection, and that I will not divulge the sentence of the court until it shall be approved of by the Governor or Commander in Chief of this province for the time being, neither will I, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial. So help me God. no sentence of death or other sentence shall be given against the offender, but by the concurrence of nine of the officers so And no sentence passed against any offender by such court-martial shall be put in execution until report be made of the whole proceedings to the Governor or Commander in Chief of this province for the time being and his directions signified thereupon].

Page 44, line 13. After the word [officer], add the words [being in the execution of his office].

Same page, line 14. Dele the word [reasonable], and insert the word [lawful].

Pages 44, 45. Dele the words [Forfeit and pay any sum not exceeding five pounds like money] in the last line of the 44th

page and the first and second lines of page 45, and instead thereof insert the words [suffered death or such other punishment as shall, according to the nature of the offense be inflicted by the sentence of a court-martial].

## Amendments to the rider to the Bill.

Dele the words [by and with the advice and consent of the provincial commissioners], in the last line of the first page and the first and second lines of the second page of the rider.

After the word [province], in the 4th line of the 2nd page, add the word [to].

Dele the words [and commissioners], in the 7th and 8th lines of page 2nd.

## Further Amendments to the Bill.

Page 45, penult line. After the word [alarmed], add the words [invasion, insurrection or rebellion].

Page 49, line 10. Dele the words [ten shillings] and instead thereof insert the words [ten pounds].

Page 50, line 1. Dele the word [five], and insert the word [fifty].

Page 62. Dele from the word [or], inclusive, in the eighth line, to the word [officers], inclusive, in the eleventh line.

Page 66, line 5. After the word [province], add [and not otherwise].

Page 70, line last and penult. Dele the words [and also distinguishing those].

Page 71, line 2. After the word [arms], add [and have not therefore appeared in his or their company under arms to be instructed in military discipline].

Same page, lines 14, 15, 16. Dele the words [to belong to such religious societies, whose principles are against bearing arms].

Page 73, line 3. After the word [charged], add [with cost of such distress].

[Endorsed] Amendments to the Militia Bill, March 12, 1764. From the original in the collection of the Historical Society of Pennsylvania.

#### SECTION VI.

1.

Grey's Inn, 30th May, 1764.

Dear Sir: It gives me very great concern, to see you embroiled with so many difficulties in your government, and engaged in such disputes with a factious assembly, deluded by their leader, Mr. Franklin, who enjoys all these troubles, hoping they will tend to gratify his unjust resentment against the proprietaries, who, to my certain knowledge, have not a wish but for the prosperity of the province and the peace and happiness of the people.

I have read the Pennsylvania Gazette wherein your and their messages are printed, together with all their resolutions. These fully show the temper of the men, and the unjust reflections they cast on the proprietaries are abominable.

In what I shall now write to you, I shall confine myself entirely to the tax bill, the great object between you, and here I must lament that you have not sent over a copy of the bill, so that I must confine myself to what appears in the Gazette upon the messages between you and the assembly.

By the order of council of the second of September, 1760, it appears that the Lords thought the tax bill of 1759 for raising one hundred thousand pounds fundamentally wrong and unjust and that it ought to be rejected unless six alterations could be made in it, enumerated in that order, these Mr. Franklin and Mr. Charles, agents for the assembly, undertook should be rectified in a future act, upon the faith of which the proprietaries consented, and upon the faith of which the Lords advised His Majesty not to reject that bill, and that he might rely upon the undertaking of the assembly of Pennsylvania, by their agents and permit that act (unjust as it was) to stand unrepealed.

Among these six enumerated alterations, the second is the present matter of debate, viz.:

2d. "That the located uncultivated lands belonging to the proprietaries shall not be assessed higher than the lowest rate at which any located uncultivated lands belonging to the inhabitants shall be assessed."

Now the assembly, in their bill, have enacted "That the lo-



cated uncultivated lands belonging to the proprietaries of this province shall not by virtue of this act be assessed higher than the lowest rate at which any located uncultivated lands belonging to the inhabitants thereof under the same circumstances of situation, kind and quality shall be assessed."

Thus the words "under the same circumstances of situation, kind and quality" seem to me to be the only words in dispute between you and the assembly, and the thing in dispute I con-The act directs that no lands shall be rated higher ceive is this: than fifteen pounds for one hundred acres nor lower than five Therefore, according to the literal construction of the pounds. words of the order of council, the located and unimproved lands of the proprietaries are to be rated at five pounds only, be their situation and quality where and what it will, and this is what you contend for as the meaning of the order. On the other hand, the assembly contend they are to be rated not higher than the lowest rate of the inhabitants, regard being had to the situation and quality. Thus, if the proprietaries and the inhabitants have located and unimproved lands lying contiguous of equal goodness and the inhabitants are rated at ten pounds or fifteen pounds, the proprietaries shall be rated at ten pounds or fifteen pounds also, and not at five pounds only, because other lands of the inhabitants and perhaps of the proprietaries too, in other places, in a worse situation and of a worse quality are rated at five pounds only.

The literal construction of the order is with you, and I do not wonder that after such repeated admonitions from the administration to beware of the encroachments of the assembly, and to support the order of council of the second day of September, 1760, you contended for the literal construction, and requested them to insert the very words of the order in their act. Still less do I wonder, when I recollect that you were present at all those arguments before the Board of Trade and the Privy Council in 1760, when the assembly had found ways to get their favorite acts passed by the Governor, whereby they had usurped the whole application of public money, had endeavored to strip the Crown and the proprietaries of every prerogative, and to tax the proprietaries in the most unequal, unjust, arbitrary and

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oppressive manner, upon all which acts that order of council of the second day of September was made.

Upon those agreements, you may remember the proprietaries submitted to be taxed for their quit-rents, for their improved rents, and also that the lands intruded upon should be taxed (from which they received no advantage), to be paid by the in-But they contended with very great reason, that their truders. located unimproved lands (which they did all they could to let, but could not let and, consequently, produced no profit), should not be taxed. Lord Chief Justice Pratt (then attorney-general) was sanguine in his opinion in this, and to this hour thinks that they ought not to have been taxed. However, the Lords were of a contrary opinion, but to prevent the assembly from taxing the proprietaries arbitrarily as they pleased, restrained the tax upon the proprietaries to the lowest rate of any of the inhabitants, and certainly then meant, what you contend for, and I have no doubt but if the point now in dispute had been then thought on, inflamed as they then were, at the usurpations of the assembly, and their injustice to the proprietaries, they would then have fully expressed themselves so as to have left no room for this contest, and declared that the proprietaries should be taxed for these located lands, at the lowest rate of the inhabitants, without regard to situation or quality.

But though this is my opinion, yet I now think it proper to advise the proprietaries to give up this point, and to submit to be taxed according to the lowest rate of the inhabitants, under the same circumstances of situation, kind and quality. For, though the literal construction of the order is what the Lords I verily believe intended, at the time they made it, yet as the Lords of the Privy Council commonly convey their ideas to the province of Pennsylvania by their words, I am not certain that after this length of time, when matters are cool, at least in this country, if this act alone were now to be debated, unaccompanied with any other flagrant acts of the assembly, that the construction might not be put upon it contended for by the assembly. I never will advise the proprietaries to appear before the King in Council in a dispute with the assembly where they are not (at least in my judgment) clearly in the right and the assembly

in the wrong. Besides, I think it not for the dignity of the proprietaries to admit that they are to be taxed for these lands (for their being taxed at all is now out of the question and not to be debated) and then to contend for the inequality of such tax with respect to themselves.

These are my sentiments upon this question, and these are the sentiments of much wiser and abler men than me [sic], and these are the sentiments of the proprietaries who have taken this matter into consideration as soon as the Gazette arrived.

What hath been the fate of the act I don't know, whether the assembly hath complied with you and left out the words "under the same circumstances of situation, kind and quality," or you have complied with them and inserted them. If the former, the proprietaries desire it to be signified (in such manner as you shall think most proper) that the act may be executed according to the construction contended for by the assembly in that respect, and that their located and unimproved lands may be taxed at the lowest rate of the inhabitants under the same circumstances of situation, kind and quality. This is giving the most liberal construction to the order of the council. It is acting agreeable to the dignity of the proprietaries and it is acting agreeable to their inclinations also, (who though they were once advised these lands ought not to be taxed at all), yet now desire (whatever ill treatment they have met with from the assembly) to be taxed in that respect equally with the rest of the inhabitants. I am,

Dear Sir,

Your most faithful, obedient and obliged humble servant,

HENRY WILMOT.

[Endorsed in the handwriting of Gov. John Penn.] Mr. Wilmot,

May 30th, 1764.

From the original in the collection of the Historical Society of Pennsylvania.

2.

Rev. Richard Peters' Draught of "Objections to the Supply

Act, taxing all the estates, real and personal, passed in Pennsylvania in June, 1764."

It cannot be understood. Reference being made therein to all former acts that have ever passed in the province for the taxation of estates.<sup>1</sup>

Objection 1st. It is very difficult to be understood either by those that are to execute it or those that are to be affected by it, as it has many references to the acts that have formerly passed for taxation of estate in this province, repealing some parts, altering others and confirming others. This introduces a confusion into the act, as well as hinders it from being seen in its true light. Sure I am that the Lords of Trade cannot comprehend it without reading over and well studying all former acts.

2nd. It appoints assessors and commissioners to inquire into, rate, assess and tax all estates and puts them under oaths to make fair and just assessments of estates according to their real value and situation; but as this is a downright farce, for almost every branch of property is taken out of their hands and a most oppressive and unjust valuation made of it in the act itself, and the consciences of the assessors are bound down to this valuation, so that the mortgagees have not a right to pledge, but must return a valuation of property that they know greatly will exceed the real value. Wherefore, the assembly, contrary to their duty, have, in an arbitrary manner, made themselves sole judges of the value of estates. Neither the people nor the Governor are allowed to exercise any judgment. The Governor is precluded because the assembly will

<sup>1</sup> The Lords have always objected to these references and directed that all future acts should have everything in them that was necessary to the execution of the bill expressed in clear and full terms.

not admit of any amendment to a money bill, and the people are precluded because the assessors chosen by them are deprived of the exercise of their judgment, all the material parts of property being rated and valued by the assembly in the act.

3rd. The persons liable to taxation are to give in accounts of their property, and if any part of it be omitted they are to be taxed fourfold and their estates to be sold for this fourfold tax, without any appeal to any court whatever or to the King in Council. And what is still more cruel, there is no provision for ignorance or any other cause of omission, the act expressly saying, if any person shall not give a just and true account and report of the several kinds of property of which he is possessed, mentioned and specified in a sheet left with him by the assessors, he shall forfeit and pay fourfold. Upon the rule established, the property so concealed ought to be rated pursuant to the act 1

4th. \* \* \* \* \* \* \* \* \* \*

such lands are bought from the proprietaries for twenty-five pounds ten shillings per hundred acres, and if sold for the payment of the tax would not fetch, in general, more than that, but in no ways would sell for the price at which they are rated in the act. This is a manifest injustice and involves four-fifths of the landed property in the province. For, suppose any parcel of land to be sold to pay the tax, three times as much land must be sold as that on which the tax is to be laid in order to pay the tax.

5th. But to show a still greater iniquity done by the assembly in this unfair taxation of unim-

<sup>1</sup> Two pages of the original manuscript are missing.

proved estates, which neither in England nor in any other province are subject to taxation at all; the assembly have put the same value on all the parts of cultivated tracts that are left in their natural state, let the laches of the non-improvement be what they will, all such lands are to pay as if they were large tracts of uncultivated lands taken up for mere profit. and this, too, after every part of the estates taxed to the utmost that is in any kind of cul-This is a most monstrous abuse of trust in the assembly and a gross grievance on all people of the poorest sort, because the poorer people are, the less they can cultivate, and yet their uncultivated rated lands will pay more in many instances than their cultivated lands which will not, take the province through, fetch a rent of five pounds a year, and yet must be rated, if the assessors do their duty, at less than the uncultivated parts of the tracts.

This grievance was principally leveled at the proprietaries, who do order particular tracts to be surveyed for the use of the family, but not in the manner asserted by the assembly, in their messages, as if they took up the best; far from it; the people have generally had the first choice and the tracts surveyed to the proprietaries are not of the best lands, but often of the worst sort, both as to product and situation.

6th. The proprietaries' receiver-general, being favored by the Governor by a sight of the bill before it passed, set both in a representation, which was laid by the Governor before the assembly [containing] the alterations about the bill, that the things enjoined to be done by them as agents for the proprietaries were in

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and pointed out particularly the shortness of the time allowed to render an estimate of their estate. And yet the assembly, though they allowed this to be free, as will appear in their votes, when printed, would not alter it nor make such changes in the act as the particular circumstances of the proprietaries' estate calls for, but most unjustly put their agents under such limitations and demands as it was impossible to comply with.

7th. The Lords by their judgment manifestly suppose that the assembly could make a fair and regular valuation of property and on such valuation the proprietors should pay equally with the people for their lands according to situation and value. This, the assembly have pretended to comply with, but the fallacy lies in this, that though they have put the people in the same position with the proprietaries, yet they have taken upon them to put a valuation on the estates, and that a very unjust one.

The assembly knows that people are apt not to complain of one another, and that though the bulk of the freeholders should not return a just account, yet neither the assessors who are chosen by them nor their neighbors will make any discovery, for this has been and may be proved by divers persons, on oath, to have been the case in a thousand instances in former assessments and that some persons have paid three or four times a greater tax than their neighbors for land of equal value and quality.

The proprietary lands will be examined closely and everything brought to light that relates to them; and they would choose it should be so, provided others were put on the same foot with them, but as this is not the case they and a few honest men will, by this act, be made to pay to the uttermost farthing while the general run of the landholders will not pay in any kind proportion to them.

- 8th. The proprietary's appropriated tracts which lie in the place where the Indians have committed their ravages are not exempted from taxation during the time of the war, though those belonging to other people are, which shows manifest partiality in the assembly; a conduct very different from that of the proprietaries who ordered their receiver-general not to take any interest from the people when they should come to take out their patents of location for lands in those circumstances.
- 9th. All the prerogatives of the Crown are taken away by this act in the very same manner as by former acts, the Governor's concurrence not being had and necessary in drafts upon the treasurer or trustees of the loan office in whose hands the moneys raised by this act are lodged; add to this that the commissioners, five of whom are members of assembly, are only made accountable to the House and the Governor has not the least check upon the accounts. In short, this is the most oppressive act that ever was offered and the serpentine polity lies in this, that the assembly has in words complied with the order of council in those parts that relate to the proprietary estate, but in that way get the proprietary estates absolutely in their power.

Nor did the Governor think himself at liberty, though all these things were mentioned in council, whilst the bill was under consideration, to reject the bill because the Indians had resumed their hostilities. And Colonel Bouquet, His Majesty's commander in the province of Pennsylvania, who was then in town, declared to the Governor and members of council that the King's business could not be done without the money, and that it was necessary to pass the act, though the proprietaries should suffer in their property, for they might have their remedy from the Crown, who would relieve them on being informed of illegal taxation. But if the duress put upon the Governor from the circumstances the province was in and it may, with proof, be affirmed, this said duress has been put upon the Governor and there is reason to think now will be put upon him by the assembly in case the troubles continue, unless their acts be repealed and this limiting other things assigned as a reason of the repeal.

The Lords of Trade have formerly intimated as

and proprietaries' governors have passed acts injurious to the proprietary or the crown where their own estates have been taxed, they cannot say so in this case (nor, indeed, with truth could it be said in any former case), because the Governor, with his eyes open, and under a perfect knowledge that the estates of the proprietaries would be at the mercy of the people, did pass the act, either in that an expedition judged absolutely necessary for the good of the kingdom should not go on for want of the money raised by this act.

In short, as the act is oppressive to all, but more particularly to the proprietaries, and as the King's prerogatives are most obstinately and wittingly continued to be injured by this act in direct violation of the stipulations of them-

selves, it is hoped that somehow or another this act will be opened and its iniquity be made known to the Lords of the Council, that it may be repealed.

As to the injury that may be done to private people, who, in case of repeal, will have so much money lost as is in their hands of this money this will be an eternal stay bar and carries no resource in it because the representatives will be obliged eventually to frame a restitution bill and make the money good to the people.

This is further to be observed that the very next year after the judgment of the King in Council made upon the above, an absolute stipulation on the part of the assemblies agent entered in the council books, the assembly passed another supply act for 100,000 pounds and obliged the Governor, without having the least regard had to the Royal judgment, either as to the proprietary estate or the King's prerogatives, and obliged the then Governor, who was in the same circumstances as to public danger with the present Governor, to pass it, and the proprietaries, whose patience and lenity are not to be conquered, have not protested that act.

[The almost illegible scrawl breaks off here abruptly, the bill in question having been passed by the assembly on the last day of May and Mr. Peters' draft of the governor's objections necessarily not having been drawn up till some time afterwards he has, no doubt, inadvertently misdated the passing of the act.]

From an original paper in the possession of Charles R. Hildeburn.



#### SECTION VII.

1.

A SUPPLEMENT TO AN ACT, ENTITLED "AN ACT FOR GRANTING TO HIS MAJESTY THE SUM OF FIFTY-FIVE THOUSAND POUNDS, AND FOR STRIKING THE SAME IN BILLS OF CREDIT IN THE MANNER HEREINAFTER DIRECTED, AND FOR PROVIDING A FUND FOR SINKING THE SAID BILLS OF CREDIT BY A TAX ON ALL ESTATES, REAL AND PERSONAL, AND TAXABLES WITHIN THIS PROVINCE.

Whereas by an act of the general assembly of this province, entitled "An act for granting to His Majesty the sum of fiftyfive thousand pounds, and for striking the same in bills of credit, in the manner hereinafter directed, and for providing a fund for sinking the said bills of credit by a tax on all estates, real and personal, and taxables within this province," passed in the fourth year of His Majesty's reign,, it was enacted that towards sinking the sum of money granted to His Majesty's use by virtue of (sic) of the said act, the located uncultivated lands belonging to the proprietaries should not be assessed higher than the lowest rate at which any located uncultivated lands belonging to the inhabitants should be assessed, and that all lands not granted by the proprietaries within boroughs and towns should be deemed located uncultivated lands and rated accordingly, and not as lots; and whereas, doubts have arisen concerning the meaning of the said clause and the Governor has informed this assembly that the proprietaries have signified to him that they do not wish or desire that their located uncultivated lands in this province should be taxed in any other manner than at the lowest rate at which any such lands belonging to the inhabitants under the same circumstances of situation, kind and quality should be assessed.

Be it therefore enacted by the Honorable John Penn, Esquire, Lieutenant-Governor, under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in Genoral Assembly met, and by the authority of the same, That the

hereinbefore recited clause of the said act and every part thereof be and is hereby repealed, annulled and made void.

Provided nevertheless and be it further enacted by the authority aforesaid, That the located uncultivated lands belonging to the proprietaries of this province shall not, by virtue of the said act, be assessed higher than the lowest rate at which any located uncultivated lands belonging to the inhabitants thereof, under the same circumstances of situation, kind and quality, shall be assessed, anything in the said act to the contrary notwithstanding.

Amendment to the bill, entitled "A supplement to an act, entitled 'An act for granting His Majesty the sum of fifty-five thousand pounds, &c.'"

Dele from the word [and], inclusive, in the penult line of page 2, to the word [lots], inclusive, in the 2nd line of page 3.

[A true] transcript from the original bill sent up to the Governor by the assembly (per two members), on Thursday, the 7th of February, 1765.

Examined by me

1766

[Signed.]

JOSEPH SHIPPEN, Jr.,

Secretary.

From the original in the collection of the Historical Society of Pennsylvania.

## SECTION VIII.

1.

At the Council Chamber, Whitehall, the 11th of February, 1766. By the Right Honorable the Lords of the Committee of Council

for Plantation Affairs.

Whereas the agent for the proprietaries of the province of Pennsylvania did, on the nineteenth day of December last, deliver into the hands of the clerk of the council in waiting thirty-one acts passed in that province in the years 1763, 1764 and 1765.

And whereas His Majesty was pleased, on the tenth of this instant, to refer the said acts to this committee, their Lordships this day took the same into consideration and are hereby

pleased to refer the said acts (which are hereunto annexed) to the Lords Commissioners for Trade and Plantations, to examine into the same and report their opinion thereupon to this committee.

## ROBERT WALPOLE.

List of thirty-one acts of assembly of Pennsylvania most humbly presented to His Majesty in Council, being entitled and passed respectively as follows:

1. "An act for regulating the hire of carriages to be employed in His Majesty's sérvice."

Passed the 8th of July, 1763.

2. "An act for erecting a light-house at the mouth of the bay of Delaware, at or near Cape Henlopen, for placing and fixing buoys in the said river and bay of Delaware, and for appointing commissioners to receive, collect and recover certain sums of moneys heretofore raised by way of lottery, and to appropriate the same to the purposes aforesaid."

Passed the 30th of September, 1763.

3. "An act to enable the commissioners for paving the streets of Philadelphia to settle the accounts of the managers, and to sue for and recover from several persons such sums of money as are now due and unpaid on account of the several lotteries set up and drawn for paving the streets of the said city."

Passed the 30th of September, 1763.

4. "An act to continue an act, entitled 'An act for regulating and continuing the nightly watch and enlightening the streets, lanes and alleys of the city of Philadelphia, and for raising money on the inhabitants and estates of the said city for defraying the necessary expense thereof.'"

Passed the 30th of September, 1763.

5. "An act for granting to His Majesty the sum of twentyfour thousand pounds for the defense and protection of this province, and for other purposes therein mentioned."

Passed the 22nd of October, 1763.

6. "An act for regulating the officers and soldiers in the pay of this province."

Passed the 22nd of October, 1763.

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"An act to prohibit the selling of guns, gunpowder or 7. other warlike stores to the Indians."

Passed the 22nd of October, 1763.

- "An act for preventing tumples and riotous assemblies, 8. and for the more speedy and effectual punishing the rioters." Passed the 3rd of February, 1764.
- 9. "An act for the payment of ten thousand nine hundred and forty-seven pounds sterling in certain proportions to several colonies in America."

Passed the 23rd of March, 1764.

10. "A supplement to the act, entitled 'An act for taking lands in execution for the payment of debts and for confirming partitions in several instances heretofore made."

Passed the 23rd of March, 1764.

11. "An act for the relief of Samuel Wallis, a prisoner in the gaol of Philadelphia, with respect to the imprisonment of his person."

Passed the 23rd of March, 1764.

**12**. "A supplement to the act, entitled 'An act for the better settling intestates' estates and for repealing one other act of general assembly of this province, entitled 'An act for amending the laws relating to the partition and distribution of intestates' estates."

Passed the 23rd of March, 1764.

13. "An act for granting to His Majesty the sum of fifty-five thousand pounds and for striking the same in bills of credit in the manner hereinafter directed, and for providing a fund for sinking the said bills of credit by a tax on all estates, real and personal, and taxables within this province."

Passed the 30th of May, 1764.

14. "An act for regulating the officers and soldiers in the pay of this province and for continuing an act, entitled 'An act for regulating the hire of carriages to be employed in His Majesty's service.' "

Passed the 30th of May, 1764.

"A supplement to the act, entitled 'An act for erecting a 15. light-house at the mouth of the bay of Delaware, at or near

Cape Henlopen and for placing and fixing buoys in the said bay and river Delaware."

Passed the 22nd of September, 1764.

16. "A supplement to the act, entitled 'An act for granting to His Majesty the sum of twenty-four thousand pounds for the defense and protection of this province and for other purposes therein mentioned.'"

Passed the 22nd of September, 1764.

17. "An act for raising, by way of lottery, the sum of three thousand and three pounds, fifteen shillings, to be applied to the payment of the arrears of debt due for the finishing St. Peter and St. Paul's Episcopal churches, in the city of Philadelphia."

Passed the 22nd of September, 1764. [Should be February 15, 1765.]

- 18. "A supplement to an act, entitled 'An act for the relief of insolvent debtors within the province of Pennsylvania.'"

  Passed the 2nd of February, 1765.
- 19. "An act for amending each and every of the acts of assembly of this province heretofore made for embanking and draining several parcels of marshy land, situate in the counties of Philadelphia and Chester, and for repairing and maintaining the banks, dams and sluices thereunto belonging."

Passed the 15th of February, 1765.

20. "An act for the relief of Walter Davies, a languishing prisoner in the gaol of Philadelphia, with respect to the imprisonment of his person."

Passed the 2nd of February, 1765.

21. "An act for the relief of James Pearson, in the gaol of Philadelphia, with respect to the imprisonment of his person."

Passed the 2nd of February, 1765.

22. "A supplement to an act, entitled 'A supplement to the act, entitled 'An act for regulating, pitching, paving and cleansing the highways, streets, lanes and alleys and for regulating, making and amending the watercourses and

common sewers within the inhabited and settled parts of the city of Philadelphia.'"

Passed the 15th of February, 1765.

23. "An act the better to enable the persons therein named to hold lands and to invest them with the privileges of natural born subjects of this province."

Passed the 2nd of February, 1765.

24. "An act for the relief of Robert Lettis Hooper, Junior, a prisoner in the gaol of Philadelphia, with respect to the imprisonment of his person."

Passed the 2nd of February, 1765.

25. "An act to enable the owners and possessors of a certain piece of marsh or meadow ground hereinafter described, situate in Kingsessing, in the county of Philadelphia, to embank and drain the same, &c."

Passed the 15th of February, 1765.

- 26. "An act for opening and better amending and keeping in repair the public roads and highways within this province." Passed the 18th of May, 1763.
- 27. "A supplement to the act, entitled 'An act for prohibiting the importation of German or other passengers in too great numbers in any one vessel.'"

Passed the 18th of May, 1763.

28. "An act to enable the inhabitants of the borough of Lancaster, in the county of Lancaster, to raise money on themselves for supporting a county [sic] of Lancaster nightly watch in the said borough, and for other purposes therein mentioned."

Passed the 20th of September, 1765.

29. "An act to explain and amend a supplement to the act, entitled 'An act for the relief of insolvent debtors within the province of Pennsylvania.'"

Passed the 20th of September, 1765.

30. "An act to enable the commissioners hereinafter named to settle the accounts of the managers and to sue for and recover from several persons such sums of money as are now due and unpaid, on account of a lottery set up and decount of a lottery set up a lottery set up a lottery set u

for erecting a bridge over Skippack creek, in the county of Philadelphia, &c."

Passed the 20th of September, 1765.

31. "An act for the easy recovery of legacies." Passed the 20th of September, 1765.

Board of Trade Proprieties, Vol. XXII, Y. 2.

2.

Tuesday, 18th February, 1766.

At a Meeting of His Majesty's Commissioners for Trade and Plantations.

## Present:

## Earl of Dartmouth,

Mr. Jenyns, Mr. Dyson, Mr. Rice.

Mr. Fitzherbert,

Lord Palmerston.

Read an order of the Lords of the committee for plantation affairs, dated eleventh of February, 1766, referring to the board, for their examination and report, thirty-one acts passed in Pennsylvania in 1763, 1764 and 1765.

It appearing that the acts referred by the above mentioned order were presented in council on fifteenth of December last, so that a small part of the term within which the Crown has a power of negative remains unexpired, it was ordered that the said acts should be forthwith sent to Sir Matthew Lamb, for his immediate consideration and report thereupon, with all possible dispatch.

(Signed.)

DARTMOUTH.

Board of Trade Journals, Vol. LXXIV, p. 51.

3.

Lincoln's Inn, 3d May, 1766.

To the Right Honorable the Lords Commissioners for Trade and Plantations.

My Lords: In pursuance of your Lordships' commands, signified to me by Mr. Pownall's letter, wherein you are pleased to

desire my opinion in point of law upon the following acts, passed in the province of Pennsylvania, I have perused and considered the same, viz.:

 "An act for regulating the hire of carriages to be employed in His Majesty's service."

This act is expired.

- 2. "An act for erecting a light-house at the mouth of the bay of Delaware, at or near Cape Henlopen, for placing and fixing buoys in the said bay and river Delaware, and for appointing commissioners to receive, collect and recover certain sums of money heretofore raised by way of lottery, and to appropriate the same to the purposes aforesaid."
- 3. "An act to enable the commissioners for paving the streets of the city of Philadelphia to settle the accounts of the managers, and to sue for and recover from several persons such sums of money as are now due and unpaid, on account of the several lotteries set up and drawn for paving the streets of the said city."
- 4. "An act to continue an act, entitled 'An act for regulating and continuing the nightly watch and enlightening the streets, lanes and alleys of the city of Philadelphia, and the raising money on the inhabitants and estates of the said city for defraying the necessary expense thereof.'"
- 6. "An act for granting to His Majesty the sum of twentyfour thousand pounds, for the defense and protection of this province and for other purposes therein mentioned."
- 6. "An act for regulating the officers and soldiers in the pay of this province."

This act is expired.

"An act to prohibit the selling of guns, gunpowder or other warlike stores to the Indians."

This act is expired.

 "An act for preventing tumults and riotous assemblies and for the more speedy and effectual punishing of the rioters."

This act is expired. It is agreeable to the act of Parliament, 1st George the First, for preventing riots.

- 9. "An act for the payment of ten thousand nine hundred and forty-seven pounds sterling, in certain proportions, to several colonies in America."
- 10. "A supplement to the act, entitled 'An act for taking lands in execution for the payment of debts and for confirming partitions in several instances heretofore made.'"
- 11. "An act for the relief of Samuel Wallis, a prisoner in the gaol of Philadelphia, with respect to the imprisonment of his person."

This act is of a very unusual nature and although the misfortunes of the person intended to be relieved by it may deserve compassion, yet the case is such that the legislature of this province have no right to interfere in it, being a pri-The prisoner, Samuel Wallis, was in convate concern. finement at the suit of his creditor, and the legislature ought not, upon his petition or of any others on his behalf, release him from confinement without the consent of or satisfaction made to such creditor. It would be of the greatest inconvenience to credit if persons confined for debt can get released without their creditor's consent by application to the legislature, and it is a power they ought not to exercise, and I am of opinion this act should be declared void.

12. "A supplement to the act, entitled 'An act for the better settling intestate's estates, and for repealing one other act of general assembly of this province, entitled 'An act for amending the laws relating to the partition and distribution of intestates' estates.'"

This act makes alterations in an act passed 4th Queen Anne, and repeals another act passed 22nd George the Second and enacts the distribution of intestates' estates, both real and personal, different to the laws of England. But this and the neighboring provinces have passed particular laws relating thereto, which have been usually confirmed; therefore, I must submit this act to your Lordships.

13. "An act for granting to His Majesty the sum of fifty-five thousand pounds and for striking the same in bills of credit

in the manner hereinafter directed, and for providing a fund for sinking the said bills of credit by a tax on all estates, real and personal, and taxables within this province."

14. "Hire of carriages to be employed in His Majesty's service."

This act is expired.

- 15. "A supplement to the act, entitled 'An act for erecting a light-house at the mouth of the bay of Delaware, at or near Cape Henlopen, and for placing and fixing buoys in the said bay and river Delaware, and for appointing commissioners to receive, collect and recover certain sums of money here-tofore raised by way of lottery, and to appropriate the same to the purposes aforesaid.'"
- 16. "A supplement to the act, entitled 'An act for granting to His Majesty the sum of twenty-four thousand pounds for the defense and protection of this province and for other purpurposes therein mentioned."
- 17. "An act for raising by way of lottery the sum of three thousand and three pounds fifteen shillings, to be applied to the payment of the arrears of debt due for the finishing St. Peter's and St. Paul's Episcopal churches, in the city of Philadelphia, and towards finishing the Episcopal church at Carlisle and the building of an Episcopal church in the towns of York and Reading and repairing the Episcopal church at Molattin, in Berks county, and for repairing the Episcopal church in Huntingdon township, in York county, and for repairing the Episcopal churches at Chichester and Concord, and purchasing a glebe for the church at Chester, in the county of Chester."
- 18. "A supplement to an act, entitled 'An act for the relief of insolvent debtors within the province of Pennsylvania.'"
- 19. "An act for amending each and every of the acts of assembly [of this] province heretofore made for embanking and draining several parcels of marshy lands, situate in the counties of Philadelphia and Chester, and for repairing and maintaining the banks, dams and sluices thereunto belonging."

20. "An act for the relief of Walter Davies, a languishing prisoner in the gaol of Philadelphia, with respect to the imprisonment of his person."

I have the same objection to this act as to the act No. 11.

21. "An act for the relief of Robert Lettis Hooper, Junior, a prisoner in the gaol of Philadelphia, with respect to the imprisonment of his person."

I have also the same objection to this act as the last.

22. "An act for the relief of James Pearson, a prisoner in the gaol of Philadelphia, with respect to the imprisonment of his person."

I have the same objection to this act as to the last.

- 23. "A supplement to an act, entitled 'A supplement to the act, entitled "An act for regulating, pitching, paving and cleansing the highways, streets, lanes and alleys and for regulating, making and amending the watercourses and common sewers within the inhabited and settled parts of the city of Philadelphia and for raising of money to defray the expense thereof.""
- 24. "An act the better to enable the persons therein named to hold lands and to invest them with the privileges of natural born subjects of this province."
- 25. "An act to enable the owners and possessors of a certain piece of marsh or meadow ground hereinafter described, situate in Kingsessing, in the county of Philadelphia, to embank and drain the same, to make and keep the outside banks and dams in good repair forever, and to raise a fund to defray the yearly expenses arising thereon."
- 26. "An act for opening and better amending and keeping in repair the public roads and highways within this province."
- 27. "A supplement to the act, entitled 'An act for prohibiting the importation of German or other passengers in too great numbers in any one vessel.'"
- 28. "An act to enable the inhabitants of the borough of Lancaster, in the county of Lancaster, to raise money on themselves for supporting a nightly watch in the said borough, and for other purposes therein mentioned."

- 29. "An act to explain and amend a supplement to the act, entitled 'An act for the relief of insolvent debtors within the Province of Pennsylvania.'"
- 30. "An act to enable the commissioners hereinafter named to settle the accounts of the managers and to sue for and recover from several persons such sums of money as are now due and unpaid on account of a lottery set up and drawn for erecting a bridge over Skippack creek, in the county of Philadelphia, and to receive the voluntary donations and subscriptions of the inhabitants towards the better perfecting the said bridge."
- 31. "An act for the easy recovery of legacies."

This act is for remedying the powers for recovering legacies which, by former acts, in this province were subsisting, but are now expired and as such acts have before received confirmation, I must now submit this act to your Lordships.

Upon perusal and consideration of these acts, I have no other objections thereto in point of law than are before mentioned, and am,

My Lords,
Your Lordships'
Most obedient,
Humble servant,

MATTHEW LAMB.

Board of Trade Proprieties, Vol. XXII, Y. 3.

4.

2nd June, 1766.

Their Lordships then took into consideration thirty-one laws passed in Pennsylvania in the years 1763, 1764 and 1765, together with Sir Matthew Lamb's report thereupon, and after some progress made therein, it was agreed to take them into further consideration to-morrow morning.

Board of Trade Journals, Vol. LXXIV, p. 170.

5.

Tuesday, 3rd June, 1766.

Their Lordships then took into further consideration the laws.

of Pennsylvania, mentioned in the minutes of yesterday, and it was ordered that the draft of a report to the Lords of the Committee of Council should be prepared, proposing the repeal of several of the said laws.

Notice having been taken of the time when these laws were presented to the King in council, it was ordered that Mr. Penn should be desired to attend the board on Monday next, in order that the board may have some conference with him on this subject.

Board of Trade Journals, Vol. LXXIV, p. 173.

6.

Monday, 9th June, 1766.

Mr. Thomas Penn, one of the proprietaries of Pennsylvania, attending as desired on the subject of the observation made by their Lordships as to the time when the laws passed in that province in 1763, 1764 and 1765 were presented to His Majesty, their Lordships had some discourse with him thereupon and having stated to him the prejudice which might arise to the public interests if the laws of that province, more especially temporary laws of short duration, were not laid before the Crown as soon as possible after their being passed, Mr. Penn acquainted the board with the reasons which had created the delay in this particular case, acknowledging at the same time the justice of their Lordships' observation, and assuring them of a due attention in future to what they recommended.

(Signed.)

DARTMOUTH.

Board of Trade Journals, Vol. LXXIV, p. 178.

7.

Friday, 13th June, 1766.

The draft of a report to the Lords of the Committee of Council upon several laws passed in the province of Pennsylvania in the years 1763, 1764 and 1765, having been prepared pursuant to order, and was approved, transcribed and signed.

(Signed.)

DARTMOUTH.

Board of Trade Journals, Vol. LXXIV, p. 191.

8.

Whitehall, 13th June, 1766.

To the Right Honorable the Lords of the Committee of His Majesty's most Honorable Privy Council for Plantation Affairs.

My Lords: Pursuant to your Lordships' order, dated the eleventh of February last, we have taken into our consideration thirty-one acts, passed in the province of Pennsylvania in the years 1763, 1764 and 1765, a list of the titles of which acts is hereunto anexed, and having, upon this occasion, consulted Sir Matthew Lamb, one of His Majesty's counsel at law, we beg leave to report to your Lordships that these acts appear to us to fall under one or other of the following general descriptions:

First, such as relate to the expenses incurred and military services necessary to be provided for during the state of hostility with the savages, in which that province was involved, in the year 1763.

Secondly, Such as relate to or operate externally upon the navigation and commerce between Great Britain and that province.

Thirdly, Such as relate to matters of constitutional establishment, operating upon the persons and estates of the inhabitants or contain provisions in respect to insolvent debtors.

Fourthly, Such as are merely of local operation, and have reference to internal police and economy.

The titles of those laws which fall under the first of these descriptions will be found in the annexed list from No. 1 to No. 8, and being calculated to answer a temporary service or exigency were, by their own limitation, or by the nature of their provisions temporary laws and are either expired or have had their full effect and operation.

The titles of the laws which fall under the second description will be found in the annexed list, from No. 9 to No. 11, and are confined to two objects, viz.: the erecting a light-house for the benefit of ships navigating through the dangerous passage of Delaware Bay, and restraining the abuses heretofore committed by captains of ships importing Germans into this province.

When we consider the salutary and humane purposes for which these laws are enacted, it is with concern that we find

ourselves under the necessity of submitting to your Lordships an objection to a particular provision in one of them, by which we conceive the legislature of this province has exceeded its jurisdiction, encroached upon His Majesty's sovereignty, and established a precedent which, if allowed, in the present case, might, in process of time, lead to more unwarrantable exertions of power; for your Lordships will find in the act (No. 10, of which is supplemental to that for erecting a light-house) that a penalty of ten pounds is imposed upon every officer of His Majesty's customs within the said province who shall clear any vessel without a certificate of such vessel having paid the light house duty of six pence per ton, established by this act.

As this is evidently calculated and must necessarily operate to control a constitutional officer of the Crown in the execution of those duties which the laws of trade and navigation require of him, it does, as we conceive, stand liable to the objection above stated in the full extent of it, and, therefore, we beg leave to recommend to your Lordships to advise His Majesty to repeal this law.

This, may it please your Lordships, is the only consideration which induces us to propose the repeal of a law, the object of which is so commendable. At the same time, we think it our duty to submit to your Lordships an observation which has occurred to us in the consideration of these laws, not applying itself either to their particular provisions or the general purposes for which they were enacted, but arising out of a consideration of that general policy by which we conceive the negative which the Crown has reserved to itself upon acts of legislature in the American colonies ought to be governed and directed, and which is at all times necessary to be strictly attended to, in order to prevent those legislatures exceeding the bounds of the authority vested in them by their constitution.

The general policy to which we here mean to refer is that of not allowing the legislatures in the American colonies to pass laws by which the trade and shipping of this kingdom may be affected, either by being subjected to duties and taxes or otherwise cramped or restrained.

The inconveniency and impropriety of allowing such a prac-

tice to prevail has, we find, been frequently heretofore a matter of serious consideration in those departments of government entrusted with the administration of the affairs of the colonies, and that consideration has produced orders and instructions to the governors of those colonies which are under the immediate direction of the Crown, strictly forbidding them to assent to any laws that fall under either one or other of those descriptions without His Majesty's permission for that purpose. orders and directions have been repeated and enforced as occasion has called for it, and, therefore, seeing that these laws of Pennsylvania now under consideration do, from the nature of their provisions and must, from their operation, affect the trade and shipping of this kingdom in both the cases above mentioned, we should have been wanting in our duty if we had not submitted this observation to your Lordships, not urging it as a reason for the repeal of the laws, seeing that notwithstanding the general rule laid down by the above-mentioned orders and instructions other colonies have, in particular cases, been indulged in passing laws of the same nature; but, submitting it to your Lordships as the ground for such directions as your Lordships may think expedient to advise His Majesty to give to the proprietaries of this province, in order to prevent this practice being further extended and to restrain the legislature of Pennsylvania from exceeding the bounds of their constitutional authority.

The titles of the laws which fall under the third head of description will be found in the annexed list, from No. 12 to No. 22.

To all these laws except the four last, Sir Matthew Lamb has reported to us that he has no objection in point of law, and, though most of them do more or less differ from the laws of this kingdom in like cases, yet, as they do not appear to us to be inconsistent with reason or natural justice and are, we conceive, founded upon local usage and custom, we see no reason why such of them as have not expired by their own limitation may not be allowed to continue in force.

With respect to the four last mentioned laws, Nos. 19, 20, 21, 22, the object of which is to release particular persons confined in the gaol of Philadelphia at the suit of their creditors, we do

agree with Sir Matthew Lamb in opinion that it would be of the greatest inconvenience to credit if persons confined for debt could get released without their creditors' consent, by application to the legislature, and that this is such a power which such a legislature ought not to be suffered to exercise.

It is true, indeed, that the circumstances attending the case of the person to whom the first of these acts refers are of peculiar hardship, under which he could have no relief but by the interposition of the legislative authority, and yet the legislature of Pennsylvania, in granting this relief, appears to have been sensible of the irregularity of the proceeding, adopting, in the preamble of the act itself, the opinion of the inhabitants, merchants and traders of Philadelphia "that it cannot be desirable to make precedents of enlarging debtors from the suits of their creditors." Notwithstanding which, such is the dangerous prevalence of precedents in cases of this nature that in the very next session of assembly, they passed the three other acts above mentioned in favor of three other prisoners for debt, none of whose cases appear to have been accompanied with circumstances of the same peculiar hardship, and two of them not distinguished from cases of a common and ordinary nature.

For these reasons, and in order to check so unusual and irregular a practice, we beg leave to recommend to your Lordships to advise His Majesty to repeal these laws. The titles of the laws which fall under the last-mentioned description will be found in the annexed list, from No. 23 to No. 31.

Upon these laws we have no other observation to make than what is continued in the general description of them and as Sir Matthew Lamb has reported to us that he has no objection to them in point of law, none occurs to us against such of them continuing in force as are not expired by their own limitation.

We are.

My Lords, your Lordships'

Most obedient and most humble servants,

Dartmouth,
John Roberts,
Palmerston.

Soame Jenyns, William Fitzherbert.

Board of Trade Proprieties, Vol. XXXIV, p. 120.

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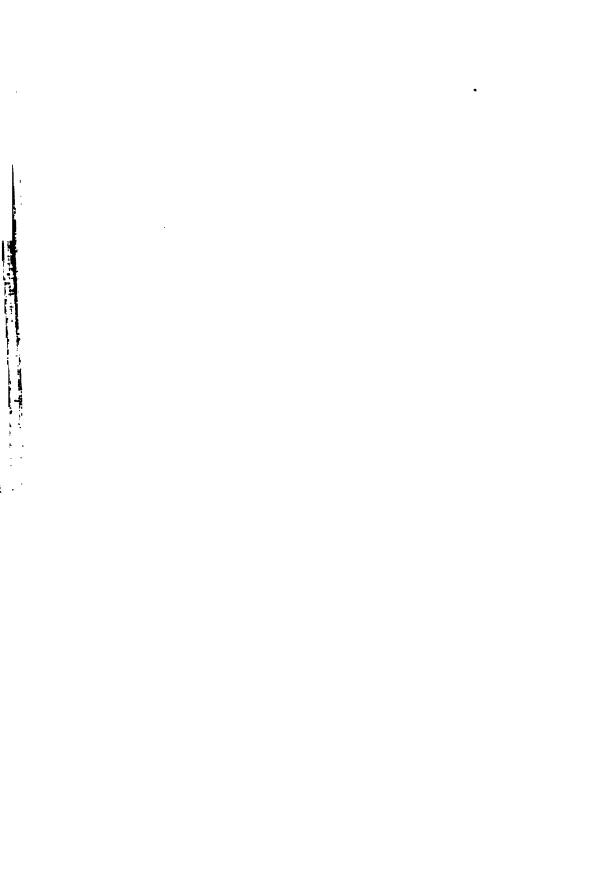
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